

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (APL) NO. 103/2021
With
CRIMINAL APPLICATION (APL) NO. 258/2019

CRIMINAL APPLICATION (APL) NO. 103/2021

1. Shivaji s/o. Panditrao Jogdand,
aged 38 years, Occ. Lawyer,
R/o. House No. 4/5/90p,
Khadkeshwar, Aurangabad,
Dist. Aurangabad.
2. Vinod S/o. Bhagwan Bharti,
aged 38 years, Occ. Carpenter,
R/o. Galii No.2, Kailash Nagar,
Dist. Aurangabad.

... **APPLICANTS**

VERSUS

1. State of Maharashtra through
Police Station Officer, Police
Station, Frezarpura, Amravati,
Tq. Dist. Amravati.
2. Sau. Yogita w/o. Shivaji Jogdand,
(Unsound Mind), Aged about 37 years,
Occ. Nil, through her next friend/natural
guardian Smt. Kokilabai w/o Arunrao
Gadekar, R/o. Shirbhate Layout,
Chaitanya Colony, Amravati,
Dist. Amravati.

... **NON-APPLICANTS**

Mr. Y. G. Gorle, Advocate for applicants
Mr. N. R. Rode, APP for Non-applicant No. 1.
Mr. R. D. Wakode, Advocate for non-applicant No.2.

With

CRIMINAL APPLICATION (APL) NO. 258/2019

1. Shivaji s/o. Panditrao Jogdand,
aged 38 years, Occ. Lawyer,
2. Smt. Sulochana wd/o Panditrao Jogdand,

Both Khadkeshwar H/n-4/5/90p, Jogdand
Niwas, Tah. & Dist. , Aurangabad.

... **APPLICANTS**

VERSUS

1. State of Maharashtra through its
P. S. O. /In-charge, Police Station,
Frezarpura, Amravati,
and Dist. Amravati.
2. Sau. Yogita w/o. Shivaji Jogdand,
(Unsound Mind), Aged about 37 years,
Occ. Nil, through her next friend/natural
guardian Smt. Kokilabai w/o Arunrao
Gadekar, R/o. Shirbhate Layout,
Chaitanya Colony, Amravati,
Dist. Amravati.

... **NON-APPLICANTS**

Mr. Y.J. Sheikh, Advocate h/f Mr. R. J. Mirza, Advocate for
applicants.

Mr. N. R. Rode, APP for non-applicant No.1/State.
Mr. R. D. Wakode, Advocate for non-applicant No.2.

CORAM : VINAY JOSHI,
VALMIKI SA MENEZES, JJ

DATED : 27.06.2023

ORAL JUDGMENT (PER: VINAY JOSHI, J)

Heard.

2. Admit.

2. Both applications are seeking to quash First Information Report ('FIR') on account of settlement in between the parties who are husband and wife.

3. Criminal Application (APL) 103/2021 is for seeking to quash FIR vide crime No. 264/2019 for the offence punishable under Sections 420, 468, 471, 506-B read with Section 34 of the Indian Penal Code registered with Police Station Frezarpura, Amravati. In the said case due to intervention of this Court, charge-

sheet has not been filed. The said proceeding was instituted at the instance of non-applicant No. 2 Mrs. Yogita Jogdand (wife) against her husband Shivaji jogdand and one Vinod Bharti alleging that the applicants have misused the cheques. Criminal Application (APL) No. 258/2019 is for seeking to quash FIR vide crime No. 3/2012 for the offence punishable under Sections 498-A, 323 read with Section 34 of the Indian Penal Code registered with Police Station Frezarpura, Amravati, Charge-sheet No. 62/2012 and related pending criminal case bearing RCC No. 431/2012. With the intervention of this Court, the trial was stayed.

4. The parties have filed several proceedings against each other due to matrimonial discord. In criminal application (APL) No. 258/2019, the matter was referred for mediation. The learned Mediator, made efforts, which yield in the shape of settlement in between the parties. The learned Mediator has prepared the terms of settlement which has been produced in both proceedings (Annexure-A1) in criminal application (APL) No. 103/2021. By and large, it was agreed that husband would pay Rs. 10 lakhs towards full and final settlement, on which parties would obtain decree of divorce by

mutual consent. It is informed that as per terms, husband has deposited Rs. 10 lakhs in the Family Court, Aurangabad on 10.04.2023. A decree of divorce has been passed in Petition No. A-135/2020 on 31.05.2022, of which copy has been produced. It is informed that after passing of the decree, on the very day, the wife has withdrawn the entire sum of Rs. 10 lakhs. As per settlement, the wife Yogita agreed to withdraw both the criminal prosecutions. In compromise deed, there is reference at para 4(b) that wife would withdraw FIR relating to Crime No. 264/2019. In criminal application (APL) No. 258/2019, a joint affidavit has been filed bearing reference that wife would also withdraw a criminal case RCC No. 431/2012 arising out of Crime No. 62/2012 on account of settlement.

5. Today, informant of both proceedings namely Mrs. Yogita is present before us. She has been identified by her Advocate Mr. R. D. Wakode and she is accompanied with her father. On query, she agreed about settlement and her no objection to quash both the criminal proceedings. On the other hand, applicant Shivaji would submit that he would adhere to the terms and conditions about

providing access to the child as per settlement. We take his submission as an undertaking given to this Court.

6. It was matrimonial dispute, which gave rise to multiple proceedings against each other pending at different Courts. On account of mutual settlement, the parties desire to withdraw all the proceedings. Particularly informant Yogita has expressed that due to settlement, she does not wish to prosecute both the criminal cases. In view of settlement, continuation of these proceedings would be abuse of the process of Court. Hence, following order:-

(I) Criminal Application (APL) 103/2021 is allowed. We hereby quash and set aside FIR vide crime No. 264/2019 for the offence punishable under Sections 420, 468, 471, 506-B read with Section 34 of the Indian Penal Code registered with Police Station Frezarpura, Amravati.

(II) Criminal Application (APL) No. 258/2019 is allowed. We hereby quash and set aside FIR vide crime No. 3/2012 for the offence punishable under Sections 498-A, 323 read with Section 34 of the Indian Penal Code

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registered with Police Station Frezarpura, Amravati, Charge-sheet No. 62/2012 and related pending criminal cases bearing RCC No. 431/2012.

(III) Both applications stand disposed of in above terms.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

Gohane