

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

CRIMINAL APPLICATION (APL) NO. 462 OF 2023

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| 1. Ravi Kumar Rajkishore Gupta,
Aged about 34 years, Occ. Service,
R/o. Motilal Sahu Market, Digha Ghat,
Patna, Taluka & District Patna (Bihar)
At present R/o. Rana Symphony
Apartment, Flat No.404, Mankapur Ring
Road, Behind Bank of India, Nikhare
Layout, Plot No.24, Nagpur – 440013 | } | ... Applicant |
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Versus

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| 1. State of Maharashtra,
Through Police Station Officer,
Police Station Ambazari, Nagpur.

2. Komal Ravi Kumar Gupta (Komal d/o
Ashok Boke), Aged about 27 years,
Occ. Service, Flat No.103, Balaji
Apartment, Dwaraka Nagar, Adilabad,
Adilabad. At present R/o. C/o. Nilesh B.
Gaikwad, Chaitanya Colony, Amravati,
Taluka and District Amravati. | } | .. Non-applicants |
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Mr. Irfan M. Ghongade, Advocate for applicant.
 Mr. V.A. Thakare, APP for non-applicant No.1.
 Mr. J.A. Malnas, Advocate for non-applicant No.2.

CORAM : VINAY JOSHI, AND
BHARAT P DESHPANDE, JJ.

DATED : 29.03.2023.

ORAL JUDGMENT : (PER: Vinay Joshi, J.)

. Heard.

(2) **Admit.** Heard finally by the consent of the learned counsel for the respective parties.

(3) This is an application seeking to quash FIR in Crime No.453/2019, with registered Ambazari Police, Station, District-Nagpur, for the offences punishable under Sections 498-A, 313, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3, 3(1)(k), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Quashing is sought on account of mutual settlement in between the parties.

(4) The applicant is husband of informant lady. They got married on 29.07.2014, but they did not have issue from the marriage. It is informant's case that she was subjected to mental as well as physical harassment at the instance of monetary demand. She also alleges about causing miscarriage without her consent. On the basis of said report, police investigated the matter and filed charge-sheet. It is informed that yet the trial Court has not framed the charge. The parties are living separately since the month of October, 2019. The non-applicant No.2-wife has filed proceeding under Domestic Violence Act. Some of the interim orders passed in the domestic violence

proceedings were challenged by husband before this Court in Criminal Writ Petition No.663/2022. In the meantime, due to intervention of relatives, the parties have shown their inclination for settlement. In view of their willingness, they appeared before the Mediator and the matter has been settled. The terms of settlement were carved out and filed before this Court in Criminal Writ Petition No.663/2022. The copy of terms of settlement is made available to us. As per settlement, husband was to pay total sum of Rs.7,00,000/- (Rs.Seven Lakhs only) towards lumpsum maintenance. It is informed that sum of Rs.1,20,000/- (Rs.One Lakh Twenty Thousand only) has already been deposited by husband in the Court of Magistrate whilst balance amount of Rs.5,80,000/-(Rs.Five Lakhs Eighty Thousand Only) has been deposited in this Court. It was agreed that party shall seek divorce by mutual consent. Both of them have decided to withdraw pending cases filed against each other. It is informed that in pursuance of settlement they have already filed petition in the Family Court seeking divorce by mutual consent.

(5) Today, the non-applicant No.2-informant lady is present before us. She has been identified by her Advocate Mr. J.A. Malnas. We have enquired with the informant, on which, she has

agreed about the settlement, sum deposited and her willingness to quash the criminal proceeding. She stated that in view of settlement, she do not wish to prosecute the criminal case.

(6) The applicant's learned counsel would submit that though FIR was lodged against husband only, however, there were certain allegations against husband's family members i.e. mother, sister and brother-in-law. They have approached this Court in Criminal Application (APL) No.1348/2019, seeking to quash the FIR to their extent. The matter was contested by informant-wife on which, this Court has declined to exercise inherent powers and rejected the said application vide order dated 11.02.2021. The said order was challenged by the family members of husband before the Hon'ble Supreme Court, wherein notices were issued. The Hon'ble Supreme Court has passed interim order about staying the further proceeding of existing crime to the extent of the then petitioners i.e. family members of husband.

(7) Pertinent to note that when relatives of husband have urged for quashing of FIR, it was resisted by wife. However, the situation has changed. By the time, the matter has been settled in

between the parties and quashing is now sought, only on account of settlement between the parties. Therefore, though the application for quashing of the relatives was rejected, it has no bearing.

(8) We have considered the contents of FIR. Essentially, it was a domestic dispute between the husband and wife. The couple has no issue from the wedlock. They are young and desirous to live their life in future, as per their own choice. They were of the view that their marriage would not work and therefore, settled the dispute. The amount of permanent alimony was also fixed. In this background, the offences cannot be turned as anti social or heinous one. The continuation of such prosecution would be exercised in futility, as the matter is settled. In order to secure ends of justice, we deem it appropriate to exercise our inherent powers.

(9) In the circumstances, the application is allowed. We hereby quash and set aside FIR in Crime No.453/2019, registered with Ambazari Police, Station, Nagpur, for the offence punishable under Sections 498-A, 313, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3, 3(1)(k), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

1989, and related proceeding namely Special Case No.45/2020, pending on the file of Additional Sessions Judge, Nagpur, to the extent of applicant.

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]

Prity