

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

CRIMINAL APPLICATION (APL) NO. 669 OF 2021

Ganesh s/o Dyandeo Fand
Vs.
State of Maharashtra, Thru. PSO, PS Jalamb, Dist. Buldana and anr.

**AND
CRIMINAL APPLICATION (APL) NO. 197 OF 2021**

Prakash s/o Vitthal Umale and Ors.
Vs.
State of Maharashtra, Thru. PSO, PS Jalamb, Dist. Buldana and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. R.D. Karode, Advocate for applicants in both
applications.
Mr. S.S. Doifode, APP for respondent/State in both
applications.

**CORAM : VINAY JOSHI, AND
VALMIKI SA MENEZES, JJ.**

DATE : 25.01.2023.

On oral request, Mr. Karode, learned
counsel for applicants is permitted to amend the
prayer clause in Criminal Application (APL)
No.669/2021 to the extent of seeking relief of
quashing of related criminal case bearing R.C.C.No.
383/2021 pending on the file of learned Judicial
Magistrate First Class, Shegaon,

2. Leave is granted as prayed for. Amendment be carried out forthwith.

3. Both applications are for quashing of FIR in Crime No.63/2015, registered with Police Station Jalamb, District – Buldana, for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

4. The applicant in Criminal Application (APL) No.669/2021 is husband whilst the applicant Nos.1 to 4 in Criminal Application (APL) No.197/2020 are nearer relatives of husband of respondent No.2 – wife.

5. Besides, merits of the case, it has been submitted that husband and wife have mutually settled the dispute out of Court and accordingly, have obtained a decree of divorce by mutual consent. It is submitted that in divorce proceeding, respondent No.2 – wife has agreed to withdraw the concerned proceedings filed for the offence punishable under Section 498-A of the Indian Penal Code. According to the applicant, since the matter is settled, there is no purpose for continuing the proceedings.

6. The learned counsel appearing for applicant would submit that in pursuance of settlement this Court has quashed the same FIR as regards to other three relatives in Criminal Application (APL) No.41/2016 vide order dated 03.03.2021. Copy of said order has been placed on record with particular emphasise to the observations made by this Court in paragraph 5 of the order. It reveals that this Court took a note about the settlement arrived in between couple and found that it is futile exercise to continue the proceedings against the then applicant and accordingly, it has been quashed. Obviously, for the same reason, the existing applicants are also entitled for quashing of FIR against them also.

7. Learned counsel appearing for applicants upon instructions would submit that after decree of divorce respondent No.2 (wife) has re-married with someone and residing elsewhere, perhaps that may be the reason for non-service of notice of this petition to her. It is evident from our order in Criminal Application(APL)No.41/2016 that the wife has settled the dispute, agreed to withdraw her criminal case and obtained divorce. In the

circumstances, if applications are kept pending that would also amounts to abuse of the process of Court.

8. In view of above facts, especially taking into account settlement of dispute which is of private nature, we are inclined to exercise our inherent jurisdiction. In the circumstances, both applications are allowed.

9. The FIR in Crime No.63/2015 registered with Police Station Jalamb, District – Buldana, for the offences punishable under Section 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code along with related criminal case bearing R.C.C.No.383/2021 pending on the file of learned Judicial Magistrate First Class, Shegaon, is hereby quashed and set aside.

10. Both applications stand disposed of accordingly.

JUDGE

JUDGE