



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

CRIMINAL APPLICATION (APL) NO.829 OF 2021

APPLICANTS

- : 1 Nikhil S/o Purshottam Bhajan
Age:- 34 years, Occ. Service, R/o 66,
Gali No.5, Bajrang Nagar, Manewada
Road Nagpur.
- 2 Purshottam S/o Madhodev Bhajan,
Age: 69 years, Occu. Retired, R/o 66,
Gali No.5, Bajrang Nagar, Manewada
Road Nagpur.
- 3 Smt. Vidhya W/o Purshottam Bhajan,
Age :- 54 years, Occ. Housewife, R/o
66, Gali No.5, Bajrang Nagar,
Manewada Road Nagpur.
- 4 Smt. Sneha W/o Nilesh Mahant,
Age:- 33, Occ. Consultant, Yogendra
Nagar, Near Bank of Baroda Nagpur.
- 5 Smt. Sarita @ Padma W/o
Ramchandra Hingwe, Age-46, Occ.
Housewife, R/o 67, Gali No.5, Bajrang
Nagar, Manewada Road Nagpur.

..VERSUS..

RESPONDENTS

- : 1 The State of Maharashtra,
through Police Station, Ajani, Nagpur.
- 2 Smt. Mayuri W/o Nikhil Bhajan,
aged about: 24 years, Occ. Education,
Present Address R/o C/o Sanjay
Kesare, S-6, Hairom Colony Omkar
Nagar, Nagpur

Plot No.66, Gali No.5, Bajrang Nagar,
near Siddheshwar Sabhagruh, Nagpur.
(Before Address)

Ms J. Dharmadhikari, Adv h/f Mr D. L. Dharmadhikari, Advocate for Applicants.
Mr J. Y. Ghurde, APP for Respondent No.1/State.
Mr N. Samundre, Advocate for Respondent No.2.

CORAM : VINAY JOSHI AND M. W. CHANDWANI, JJ.

DATE : 1st DECEMBER, 2023.

ORAL JUDGMENT : (PER : VINAY JOSHI, J.)

. Heard finally by consent of the learned Counsel
appearing for the parties.

Admit.

2. This is an application seeking to quash charge-sheet arising out of Crime No.282 of 2021 registered with Ajani Police Station, District Nagpur, for the offence punishable under Sections 307, 498-A, 325, 323, 506, 504, 120-B and 34 of the Indian Penal Code, 1860, on account of mutual settlement.

3. The informant lady got married with applicant No.1 on 06.12.2019. The applicants are husband, parents-in-law, sister-in-law and neighbouring lady. Soon after the marriage, the

informant started to reside in the company of applicants, however, the marriage does not run smoothly. There was a matrimonial dispute in which the lady perceived consistent harassment. She has approached to the Police with a grievance, however, cognizance was not taken. The informant has filed an application to the concerned Magistrate, in terms of Section 156(3) of the Code of Criminal Procedure. In pursuance of directions issued by the Magistrate, the Police have registered the aforesaid crime and carried investigation. After completion of investigation, charge-sheet has been filed.

4. During pendency of this application, this Court has perceived the element of settlement. Since it was a matrimonial dispute and the parties were keen for settlement, the matter was referred for mediation. The learned Mediator took several meetings and ultimately mediation efforts resulted into success. It was decided that the parties shall take divorce by mutual consent. The husband would pay total sum of Rs.8,50,000/- towards full and final settlement. It was also decided that the husband would return the marital articles to the wife informant.

The terms of settlement have been reduced into writing in the form of agreement before the learned Mediator. Both the parties have signed the terms of agreement which is a matter of record.

5. Though the Police have invoked the provisions of Section 307 of the IPC, we have gone through the contents of Police report. It is alleged that the husband has tried to throttle the lady as well as assaulted her by means of steel rod. In reported case of *Gian Singh vs. State of Punjab and Another*, it has been ruled that mere invocation of particular Section by Police is not enough, but Court has to see the facts when the parties seek for quashing on account of settlement. It is purely a matrimonial dispute. The things went worst, as there are allegations and counter allegations against each other. Both have realized that the marriage would not work. The couple is young having no issues. They have mutually decided to sever matrimonial ties and lead their life as per their choice. The efforts of mediation yielded by settling the dispute. Already the informant wife has withdrawn the proceeding filed under Domestic Violence Act, in pursuance of settlement. The

household articles have already been returned to the lady in presence of Protection Officer. It is informed that agreed sum of Rs.8,50,000/- has been deposited in the Family Court which were to be paid to the informant lady, after passing of decree of divorce. It is informed that the pending petition for divorce has been converted into divorce by mutual consent in terms of Section 13B of the Hindu Marriage Act, 1955.

6. Having regard to the above peculiar facts that it is a domestic dispute and the matter is settled, continuation of prosecution amounts to abuse of the process of Court. Though, the provisions of Section 307 of the IPC have been invoked, however, the Police paper gives impression that it was an outcome of bitter hatred in between the couple. Both are firm on the point that they can not live together. In the circumstances, the continuation of prosecution may become an obstacle in their decision of severing matrimonial ties in permanency.

7. Considering the above peculiar facts, we are inclined to accede the request for quashing of charge-sheet. Moreover, today the informant wife has also filed an affidavit stating about the settlement and her no objection to quash the proceeding.

8. In view of above, the criminal application is **allowed**. We hereby quash and set aside the charge-sheet (R.C.C. No.4467 of 2022) arising out of Crime No.282 of 2021 registered with Ajani Police Station, District Nagpur, for the offence punishable under Sections 307, 498-A, 325, 323, 506, 504, 120-B and 34 of the IPC.

9. The criminal application stands disposed in above terms.

(M. W. CHANDWANI, J.)

(VINAY JOSHI, J.)