

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

CRIMINAL APPLICATION (APL) NO.338 OF 2023

[Kulsum Arif Mirza and Ors. ..V/s.. State of Maharashtra and Anr.]

WITH

CRIMINAL APPLICATION (APL) NO.859 OF 2023

[Faizan Altaf Mirza ..V/s.. State of Maharashtra and Anr.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr V. V. Sharma, Advocate for Applicants.
Mr N. R. Rode, APP for Non-Applclicant No.1/State.
Mr S. A. Mohta, Advocate for Non-Applclicant No.2.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.

DATE : 4th JULY, 2023.

. Challenge in both these applications is to the registration of First Information Report (FIR) bearing crime No.369 of 2021, registered with Shantinagar Police Station, District Nagpur, for the offence punishable under Sections 498-A, 323 and 504 read with Section 34 of the Indian Penal Code, 1860. Though, there can be no criminal offence under Section 3 of the Protection of Women from Domestic Violence Act, 2005, however, it has also been invoked, therefore, the same is also sought to be quashed.

2. Applicant Faizan of Criminal Application No.859 of 2023 is the husband of informant-wife, whilst applicant Nos.1 to 9 of Criminal Application No.338 of 2023 are nearer relatives of husband Faizan. At the instance of report lodged by non-applclicant No.2 Misbah dated 17.12.2021, the crime was registered. By and large, she alleged about matrimonial cruelty at the hands of her husband and nearer relatives of husband.

During the matrimonial dispute, with the intervention of friends and relatives, the parties have amicably settled the dispute. Particularly, it was decided that they should obtain divorce and sever the matrimonial ties forever. In accordance with the settlement, the parties have filed a compromise pursis in pending petition bearing No.A-701 of 2022 in the Family Court at Nagpur, stating that they have obtained divorce by Khula in presence of witnesses on 12.06.2023. The wife has also agreed that she has waived all her rights of maintenance from the applicant-husband.

3. Today, the informant lady is present in Court accompanied by her father. The informant is identified by her Advocate Mr Mohta. We have verified the contents of compromise pursis with the informant to which she agreed and particularly stated that she has consciously waived all her rights of maintenance. Since the matter is settled by way of compromise pursis, there is no purpose in prosecuting the trial. The couple is young having no issues. They found it difficult to pull on the matrimonial relations due to temperamental differences. In view of that to further the smooth life of the couple, it is in the interest of justice to quash the proceeding which would be a fruitful exercise, in view of settlement.

4. In these circumstances, both applications are **allowed**. We hereby quash and set aside the FIR in Crime No.369 of 2021, registered with Shantinagar Police Station, District Nagpur, for the offence punishable under Sections 498-A, 323 and 504 read with Section 34 of the Indian Penal Code, 1860 and under

Section 3 of the Protection of Women from Domestic Violence Act, 2005 alongwith related pending criminal case bearing RCC No.1855 of 2022 pending on the file of Judicial Magistrate First Class, Nagpur.

5. The criminal applications are disposed of accordingly.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)