

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

CRIMINAL APPLICATION (APL) NO. 1001 OF 2022

- APPLICANTS :**
1. Ashwini Kumar s/o Omprakash Vyas,
Age - 42 years, Occ – Service.
 2. Om Prakash Vyas,
Age – 64 Years, Occ – Retired.
 3. Kiran Devi Vyas,
Age – 62 Years, Occ – Housewife.

All applicants are presently Residing at
302 B Block Vandana Earls Court Apartment,
Kudlu Gate Bangalore South,
Bommanahalli – 560068.

VERSUS

- NON-APPLICANTS :**
1. State of Maharashtra
Through P. S.O. Police Station,
Dattapur, Amravati Rural.
 2. Priya Ashwinikumar Vyas,
Aged abt. 36 Years, Occ – Household
R/o Dhamangaon Rly,
Marwadi Boarding, Tq. Dhamangaon
Rly, Dist. Amravati.

Shri Yogesh Shukla, Advocate for applicants.

Shri M. J. Khan, Additional Public Prosecutor for respondent No.1.

Shri P. V. Navlani, Advocate for respondent No.2.

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

DATED : 01/02/2023.

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

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. This is an application in terms of Section 482 of the Code of Criminal Procedure seeking to quash First Information Report in Crime 0305/2022 for the offence punishable under Section 498-A r/w Section 34 of the Indian Penal Code.

3. The couple got married on 11/12/2009 and is blessed with one daughter. However, during passage of time, they were unable to adjust with each other. In the result, they started to reside separately since 2017. Then the matter was patched up, however, again, they were separated from 07/11/2021. Since the lady has been allegedly harassed by her husband and in-laws, she has filed existing report with the concerned police. The police investigated the matter and filed charge sheet in the Court of concerned Magistrate. The said case bearing Regular Criminal Case No.159/2022 is presently pending on the file of Judicial Magistrate First Class, Dhamangaon Railway, Dist, Amravati. It is informed that yet, charges have not been framed in the trial.

4. The husband and in-laws were of the view that the allegations levelled in the report are totally false. Therefore, they have applied for quashing of First Information Report. During pendency of this application, with intervention of friends, relatives and learned Mediator, the parties have arrived at settlement. Both sides were in agreement that the marriage may not run smoothly.

Therefore, they decided to sever matrimonial ties by mutually applying to the Competent Court for Decree of Divorce in terms of Section 13-B of the Hindu Marriage Act, 1955. In accordance with that, they have already filed a joint application to the Court of Civil Judge, Senior Division, Amravati vide HMP No.43/2023. On the date of presentation, both have agreed the contents before the learned Judge and now, the matter has been postponed by Civil Judge, Senior Division for the period of six months due to statutory requirements of observing cooling period.

5. The copy of petition for divorce has been produced which sets out the terms and conditions mutually arrived at, in between the parties. It was one of the major term that the husband would execute a gift deed of flat at Bangalore as regards to his undivided 50% share. In accordance with the said term, the husband has executed registered gift deeds on 30/01/2023, of which today original gift deed is handed over to the wife, of which admittedly the wife is owner of remaining 50% share.

6. It was agreed that the husband would pay total sum of Rs.28,00,000/- to the wife towards full and final settlement. Out of that, already sum of Rs.2.50,000/- has been paid to the wife which she accepted.

7. Having regard to the financial constraints of the husband, he has handed over five post-dated cheques about remaining amount which would be presented stage-wise till 15/09/2023. The husband has assured before us that he would see that all the cheques would be honoured and further submitted that in case, either of the cheques is dishonoured, without hearing him, this Court may recall the order which we would pass.

8. Today, the informant – wife is present before us and she agreed about the settlement and gave her no objection to quash the First Information Report as well as related pending criminal case. Moreover, she has signed a joint Pursis demonstrating the settlement and admits her signature thereof. The informant – wife has been identified before us by her learned counsel Shri Navlani and more particularly, today she is accompanied with her mother namely; Smt. Asha Bissa. The informant has given her consent for quashing of First Information Report as by virtue of settlement, she does not desire to proceed with criminal trial.

9. The offence is of domestic nature having no social impact. Both the parties have decided to sever the matrimonial ties and move ahead in the life as per their choice.

10. In the circumstances, there is no purpose in keeping the trial pending as it would be a futile exercise.

11. In view of the above, we deem it fit to exercise our inherent jurisdiction and accordingly, we hereby quash and set aside the First Information Report No.0305/2022 registered with Police Station Dattapur, Dist. Amravati for the offence punishable under Section 498-A r/w Section 34 of the Indian Penal Code along with criminal case bearing Regular Criminal Case No.159/2022 pending on the file of Judicial Magistrate First Class, Dhamangaon Railway, Dist. Amravati.

12. Application is disposed of, in the above terms.

13. The applications pending if any, stand disposed of accordingly.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]

Choulwar

VITHAL
MAROTRAO
CHOULWAR

Digitally signed by
VITHAL MAROTRAO
CHOULWAR
Date: 2023.02.02 16:55:11
+0530