

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

CRIMINAL APPLICATION (APL) NO. 869 OF 2020

APPLICANT :

Mr. Rupesh Babanrao Kapse,
Age about 35 years, Occ. Service,
Permanent R/o Plot No.45,
Shyam Nagar, Hudkeshwar Road,
Nagpur.

V E R S U S

RESPONDENTS :

1. The State of Maharashtra
Through P. S. O. Police Station
Hudkeshwar, Nagpur.
2. Mrs. Roshni Rupesh Kapse,
Age 35 Years, Occ. Business,
R/o Plot No. 127, Ayodhya Nagar,
Nagpur.

WITH

CRIMINAL APPLICATION (APL) NO. 1130 OF 2019

APPLICANTS :

1. Sameer S/o Motiram Pakhare,
Aged about 35 yrs, Occ. Service,
(Police Constable Nagpur Rural),
R/o Plot No. 127, Near Ram Mandir,
Ayodhya Nagar, Nagpur.
Mob. No. 8805023935.
2. Ramchandra S/o Sampatrao Dandekar,
Aged about 40 yrs, Occ. Labourer,
R/o Devada (Bk), Tah. Mohadi,
Distt. Bhandara.
3. Smt. Roshni W/o Rupesh Kapse,
Aged about 32 yrs, occ. Private Business,
R/o Shyamnagar, Plot No.45-B,
Hudkeshwar Road, Near St. Paul School,
Nagpur.

4. Dhiraj S/o Sunil Uikey,
Aged about 25 yrs, Occ. Student,
R/o Shyamnagar, Hudkeshwar Road,
Nagpur.
5. Suraj S/o Bharat Kawade,
Aged about 24 yrs, Occ. Student,
R/o Pipla, Tah. & Distt. Nagpur.

V E R S U S

- NON-APPLICANTS :**
1. State of Maharashtra
Through P. S. O., P. S.
Hudkeshwar, Nagpur.
 2. Rupesh S/o Babanrao Kapse,
Aged about 33 yrs., Occ. Service,
R/o 164, Imperian Town 2,
Kothewada, Tah. Hingna,
Distt. Nagpur.

Ms. Vaishali Khadekar, Advocate for applicant in APL No.869/2020 and
for respondent No.2 in APL No.1130/2019.
Shri Shashibhushan Wahane, Advocate for Respondent No.2 in APL
No.869/2020 and for applicants in APL No.1130/2019.

CORAM:- VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.
DATED : 23/01/2023.

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

1. Both applications are for seeking to quash respective
First Information Reports. Basically, it is a dispute between
husband and wife.
2. **Admit.** With the consent of both sides, matter is taken
up for final hearing.

3. Applicant of Criminal Application (APL) No.869/2020 is husband whilst applicants in Criminal Application (APL) No.1130/2019 are wife and her relatives. Earlier, wife has filed FIR bearing Crime No.0299/2018 with Hudkeshwar Police Station against her husband for the offence punishable under Sections 448, 294 and 506 of the Indian Penal Code. As against this, husband has filed FIR bearing Crime No.0377/2019 against his wife, brother-in-law, uncle and two others.

4. By virtue of different orders of this Court, charge sheets have not been filed in either of the proceedings. Both parties have approached this Court for quashing of respective FIRs by invoking inherent jurisdiction of this Court. During the pendency of these applications, the couple has settled the dispute amicably out of the Court. They decided to sever the matrimonial ties and jointly applied for mutual divorce in terms of Section 13-B of the Hindu Marriage Act, 1955.

5. Beside other terms, they have agreed to assist each other for quashing respective First Information Reports. Those terms of settlement have been filed in the Family Court on the basis of which a Decree of Divorce has been passed on 17/02/2021. As per the agreed terms, the parties do not wish to prosecute the respective criminal cases.

6. Initial dispute was in between the couple, which was set at rest by getting divorce by mutual consent. In order to maintain harmony between two families, they decided to withdraw the cases lodged against each other. Both Informants i.e. Roshni and Rupesh are present in Court, who are identified by their respective counsel. They have agreed that the matter is settled and they do not want to prosecute against each other.

7. Since the matter is settled, there is no purpose in requiring the parties to face the trial, as the chances of conviction are remote and bleak. This Court can invoke its inherent jurisdiction to prevent the abuse of process of Court, or to secure the ends of justice. In the circumstances, as the matter is settled, we deem it appropriate to exercise our inherent jurisdiction.

In view of the above, we pass the following order :-

- i] Both applications are allowed.
- ii] Crime No.0299/2018 registered by Roshni with Police Station, Hudkeshwar, Dist. Nagpur for the offence punishable under Sections 448, 294, 506(B) of the Indian Penal Code and Crime No.0377/2019 registered at the instance of husband - Rupesh with the Police Station, Hudkeshwar, Dist. Nagpur for the offence punishable under Sections 380, 427 and 504 of the Indian Penal Code are hereby quashed and set aside.

iii] Both applications are disposed of accordingly.

iv] The applications pending, if any, stand disposed of accordingly.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]

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