



Judgment

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

CRIMINAL APPLICATION (APL) NO. 619/2024

WITH

CRIMINAL APPLICATION (APL) NO. 558/2023

CRIMINAL APPLICATION (APL) NO. 619/2024

Nikhil s/o Mohan Kodalkar,
aged about 29 yrs., Occ. Service,
R/o. Kodalkar Hospital, Link Road, Pandharpur,
Tq. Pandharpur, Distl Solapur (Husband).

... **APPLICANT**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Buldhana City, Tq. & Dist. Buldhana.
2. Dr. Chaitali w/o Nikhil Kodalkar,
Aged about 28 yrs., Occ. Doctor,
Serving as a Medical Officer Gynec
Department, Government Hospital
at Khamgaon, R/o. Tulsi Nagar,
Sagwan Area, Buldhana, Tq. &
Dist. Buldhana (wife)

...**NON-APPLICANTS**

AND

CRIMINAL APPLICATION (APL) NO. 558/2023

1. Mohan Vithoba Kodalkar,
Aged about 64 yrs., Occ. Retired
Govt. Servant,
2. Sau. Shakuntala w/o Mohan Kodalkar,
Aged about 57 yrs., Occ. Household,
3. Mahesh s/o. Mohan Kodalkar,
Aged about 37 yrs., Occ. Medical
Practitioner (Doctor),

All 1 to 3 are R/o. Gaurimani Bunglow,
Shiv-Parvati Nagar, Link Road, Pandhapur,
Tq. Pandharpur, Dist. Solapur.

4. Sau. Gauri w/o Mangesh Patil,
Aged about 39 yrs., Occ. Medical
Practitioner (Doctor), R/o. Nillkanth
Hospital, Kalthan Road, Indapur,
Tq. Indapur, Dist. Pune.

... **APPLICANTS**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Buldhana City, Tq. & Dist. Buldhana.
2. Dr. Chaitali w/o Nikhil Kodalkar,
Aged about 28 yrs., Occ. Doctor,
Serving as a Medical Officer Gynec
Department, Government Hospital
at Khamgaon, R/o. Tulsi Nagar,
Sagwan Area, Buldhana, Tq. &
Dist. Buldhana.

...**NON-APPLICANTS**

Mr. P.D. Mane and Mr. C.R. Sharma, Advocates for applicants.
Mr. S.V. Narale, APP for non-applicant No.1.
Mr. R.S. Kurekar, Advocate for non-applicant No.2.

**CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.**
DATE : 24.04.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

3. Both applications are similarly seeking to quash First Information Report ('FIR') in Crime No.849/2022 registered with Police Station Buldhana City, District Buldhana for the offence punishable under Sections 498-A, 377, 323, 504, 506, read with Section 34 of the Indian Penal Code, on account of mutual settlement.

4. Criminal Application (APL) No. 619/2024 has been filed by husband, whilst Criminal Application (APL) No. 558/2023 has been filed by the relatives of husband similarly seeking to quash FIR. The couple got married on 21.12.2021. After marriage, the

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informant started to cohabit with her husband and in-laws. Within few days, the differences arose and due to matrimonial harassment, informant returned to her maternal house and then lodged report. In Criminal Application (APL) No. 558/2023, interim relief has been granted by which investigation was permitted to go on, but directed for not to file charge-sheet without obtaining leave of this Court.

5. During the pendency, with the aid and intervention of relatives and friends, the matter has been amicably settled. Both are young having no issue from the marriage. Both found it difficult to live together due to differences. They have mutually decided to sever matrimonial ties in permanency. The husband has agreed to pay total sum of Rs. 37,00,000/- towards one time maintenance. The husband also agreed to return all household articles to the wife.

6. In pursuance of settlement, both have jointly applied to the Family Court, Buldhana for divorce by mutual consent in terms of Section 13B of the Hindu Marriage Act. Husband has already paid sum of Rs. 15,00,000/- to the wife and balance amount was agreed to be paid at the time of decree of divorce. The wife has no objection

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to quash the criminal prosecution against all the accused. Copy of divorce petition has been tendered on record. The wife has filed her affidavit stating about settlement and her no objection to quash the proceeding.

7. Informant wife is present before us who has been identified by her Advocate Mr. Kurekar. On our query, she has accepted the settlement, particularly, she has accepted that all articles which were agreed to be returned were already returned to her. The husband undertakes to deposit balance amount of Rs. 22,00,000/- with the Family Court before passing of the decree which the wife would be entitled for receive. It is matrimonial offence which cannot be termed as heinous or antisocial. The parties have mutually sorted differences by separating from each other for betterment of their life. In the circumstances, continuation of prosecution amounts to abuse of the process of the Court.

8. In view of above, both applications are allowed. We hereby quash and set aside FIR vide Crime No.849/2022 registered with Police Station Buldhana City, District Buldhana for the offence

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punishable under Sections 498-A, 377, 323, 504, 506 read with Section 34 of the Indian Penal Code on account of mutual settlement.

9. Applications stand disposed of in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)