



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3397 OF 2025

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| 1. | Aslam s/o Shahanoor Khan
Age: 34 years, Occu: Labour
R/o Behind Bari Masjit,
House No.4-11-24, Lane No.6,
Bari Colony, Aurangabad | Husband |
| 2. | Shahanoor Khan Birham Khan
Age: 75 years, Occu: Nil
R/o Behind Bari Masjit,
House No.4-11-24, Lane No.6,
Bari Colony, Aurangabad | (Mother-in-law |
| 3. | Haleema Bee Khan Shahanoor Khan
Age: 51 years, Occu: Nil
R/o House No.8-18-389, Ram Mandir Lane
No.6 Bari Colony, Aurangabad | |
| 4. | Ishrat Umar Khan
(Ishrat Begum Shahanoor Khan)
Age: 27 years, Occu: Labour
R/o House No.8-21-389, Ram Mandir Lane
No.6, Bari Colony, Aurangabad | |
| 5. | Shakera Kadir Khan
(Shakera Begum w/o Kadir Patel)
R/o House No.8-18-389, Ram Mandir Lane
No.6 Bari Colony, Aurangabad | ... Applicants
(Orig. Accused) |
| 6. | Jakera Hafiz Khan Pathan
Age: 43 years, Occu: Housewife
R/o House No.8-21-239, Lane No.1, Near
Yasin Masjit, Jaswantpura, Neharunagar,
Aurangabad | |

VERSUS

1. The State of Maharashtra,
Through Jinsi Police Station, Aurangabad
(Chh. Sambhajinagar)
2. Shashista w/o Aslam Khan ... **Respondents**
Age: 30 years, Occu: Housewife
R/o Bari Colony, Near Ram Mandir,
Aurangabad(Chh. Sambhajinagar)

Mr. Parmeshwar A. Shendge h/for Mr. Prashant P Giri, Advocate for the applicants

Ms. Neha B. Kamble, APP for the Respondent-State

Mr. Sohail Subhedar, Advocate for Respondent No.2

**CORAM : MANISH PITALE &
Y. G. KHOBRADE, JJ.**

DATE : 12.09.2025

ORDER (Per: Y. G. Khobragade, J.)

1. By the present application, the applicants have invoked jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1974, which is identical to Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023(for short, BNSS, 2023), praying for quashing and setting aside the criminal proceedings bearing Regular Criminal Case No. 2276 of 2004 pending on the file of learned 2nd Judicial Magistrate First Class, Aurangabad (Now Chhatrapati Sambhaji Nagar), arising out of First Information Report dated 25.04.2024 lodged by Respondent No.2, which is registered as Crime No. 0095 of 2024 with Jinsi Police Station, Tq. & Dist. Aurangabad, for the offences punishable under Sections 323, 324, 498-A, 504, 506 r/w 34 of Indian Penal Code, 1860.

2. The applicants are original Accused, whereas Respondent No.2 is the original Informant in Crime No. 0095 of 2024 registered with the Jinsi Police Station, Tq. & Dist. Aurangabad, for the offences punishable under Sections 323, 324, 498-A, 504, 506 r/w 34 of Indian Penal Code, 1860. Accused No. 1 is a husband, Accused Nos. 2 and 3 are father and mother-in-laws and Accused Nos. 3 to 6 are sisters-in-laws of the Informant.

3. Heard at length the learned counsel appearing for the Applicants, learned APP for Respondent No.1/ State and learned Counsel appearing for the Respondent No.2/informant.

4. Having regard to the strenuous submissions canvassed on behalf both sides, we have gone through the record. It is not in dispute that marriage between Accused No. 1 and Respondent no. 2/ Informant was solemnized on 24.03.2013 as per Muslim customs and rites. The parents of the informant provided sufficient dowry and domestic articles on eve of marriage. After the marriage, the Informant cohabited with her husband/accused no. 1 in a joint family. The informant alleged that, she was well treated for 9 months from the date of marriage but subsequently, she was subjected to cruelty on demand of more dowry and used to beat her.

5. On face of record it appears that, on 21.04.2024, the Informant and all Accused persons gathered at the house of Nazira Patel, the informant's sisters-in-law for celebration of Walima (wedding reception ceremony), wherein Accused no. 1 beat the Informant with wooden long and other accused also assaulted her due to some quarrel. Therefore, the informant lodged the FIR, on the basis of Crime No. 0095 of 2024 was registered with the Jinsi Police Station for the offences punishable under Sections 323, 324, 498-A, 504, 506 r/w 34 of Indian Penal Code, 1860. After due investigation, the Investigation Officer filed the Charge sheet against all the Accused therein, which is registered as Regular Criminal Case No. 2276 of 2024.

6. The learned Counsel appearing for the applicants/accused canvassed that after registration of above stated crime, the applicants/accused are already enlarged on pre-arrest bail vide order dated 4th May, 2024 passed by the learned Session Judge, in Criminal Bail Application No. 857 of 2024. So also, due to matrimonial dispute, the Informant had filed proceeding bearing Petition No. E-184 of 2024 under section 144 of BNSS, 2023 before the learned Family Court, Aurangabad, seeking maintenance. Further, Respondent No.2 initiated the proceedings under Section 307 of the Indian Penal Code bearing Criminal M. A. No. 1152 of 2024 and Criminal M.A. No. 1379 of 2024

under Sections 3 & 4 of Muslim Women Protection of Rights on Marriage Act. However, during pendency of said proceedings, the Applicants/Accused and Respondent No. 2/Informant have entered into compromise and amicably settled their matrimonial dispute and since then the informant has been cohabiting with her husband applicant/accused no. 1 and they are enjoying happily married life. So also, on 13.06.2025 both the proceedings i.e. Criminal M. A. No. 1152 of 2024 and Criminal M.A. No. 1379 of 2024 are disposed of on account of settlement. Therefore, the applicants have filed the present application and prayed for quashing and setting aside the criminal proceeding bearing Regular Criminal Case No. 2276 of 2004 pending on the file of learned 2nd Judicial Magistrate First Class, Aurangabad on account settlement of the matrimonial dispute.

7. The learned counsel appearing for the Respondent No. 2/informant has not disputed about the fact of settlement of matrimonial dispute between the applicants/accused and Respondent No.2/informant. The learned counsel for Respondent No.2/ informant has not disputed about cohabitation of Respondent No.2 with the applicant/husband in pursuance of settlement. Hence, he prayed for passing suitable order.

8. In case of **Suresh Nathmal Rathi & Ors. Vs. State of Maharashtra & Ors., 1991 (2) Mh. L.J. 1106**, the Single Bench of this Court held in paras 21 as under:

"After giving conscious consideration to the case and also the facts placed before me for seeking the permission and to direct the Judicial Magistrate First Class to allow the parties to compound the offence, no doubt, such permission can be granted only under the peculiar and social circumstances and considering the facts and circumstances, it is a peculiar and special case. As it is submitted in the applications Exhibits 34 and 35 filed before the J.M.F.C. Shegaon and statement made by Shri Bhattad, the learned Counsel for the petitioners, it is crystal clear that now there is no dispute between the parties and the complainant Smt. Shobha is leading happy married life. If the permission sought for to compound the offence punishable under section 498-A of Indian Penal Code, is not considered, there would be a destruction of the married life and they would not prolong well in the eyes of the society. If the hanging sword is over the neck of the husband as well as the old mother and the brothers, the relations may again become strained and there would be a destruction of the happy life of Smt. Shobha and her husband. It may be that at one point of time, the husband and the relations had committed some undescribed Act, but subsequently, the facts reveal that they repent and ultimately, all are happy. Under these circumstances, it would not be desirable to reject the prayer made by the petitioners and to disturb their happy life. On the contrary, the husband and wife are enjoying the peaceful life. Under the circumstances and in the interest of the maintenance of the coordinative relationship between husband and wife as well as other members of the family, the petitioners be allowed to compound the offence under section 498-A of the Indian Penal Code."

9. In case of *Narinder Singh & Ors. Vs. State of Punjab*,

(2014) 6 SCC 466, the Hon'ble Supreme Court has held as follows:-

"27. In the case of Dimpey Gujral (supra), observations of this Court to the effect that offences involved in that case were not offences against the society. It included charge under Section 307 Indian Penal Code as well. However, apart from stating so, there is no detained discussion on this aspect. Moreover, it is the other factors which prevailed with the Court to accept the settlement and compound the offence, as noted above while discussing this case. On the other hand, in Shambhu Kewat (supra), after referring to some other earlier judgments, this Court opined that commission of offence under Section 307 Indian Penal Code would be crime against the society at large, and not a crime against an individual only. We find that in most of the cases, this view is taken. Even on first principle, we find that an attempt to take the life of another person has to be treated as a heinous crime and against the society.

28. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 Indian Penal Code as well.

Therefore, only because FIR/Charge-sheet incorporates the provision of Section 307 Indian Penal Code would not, by itself, be a ground to reject the petition under Section 482 of the Code and refuse to accept the settlement between the parties. We are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 Indian Penal Code, once the evidence to that effect is led and

injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid circumstances, if the High Court forms an opinion that provisions of Section 307 Indian Penal Code were unnecessary included in the charge sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties.

29. At this juncture, we would like also to add that the timing of settlement would also play a crucial role. If the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing the proceedings/investigation. of course, it would be after looking into the attendant circumstances as narrated in the previous para. Likewise, when challan is submitted but the charge has not been framed, the High Court may exercise its discretionary jurisdiction. However, at this stage, as mentioned above, since the report of the I.O. under Section 173, Code of Criminal Procedure is also placed before the Court it would become the bounding duty of the Court to go into the said report and the evidence collected, particularly the medical evidence relating to injury etc. sustained by the victim. This aspect, however, would be examined along with another important consideration, namely, in view of settlement between the parties, whether it would be unfair or contrary to interest of justice to continue with the criminal proceedings and whether possibility of conviction is remote and bleak. If the Court finds the answer to this question in affirmative, then also such a case would be a fit case for the High Court to give its stamp of approval to the compromise arrived at between the parties, inasmuch as in such cases no useful purpose would be served in carrying out the criminal proceedings which in all likelihood would end in acquittal, in any case."

10. In case of ***Gian Singh -vs- State of Punjab, (2012) 10 SCC 303***, the Hon'ble Supreme Court has also conceded about the quashing

of the case in terms of the settlement arrived at between the parties and observed in para 6 as follows:-

6. In Nikhil Merchant AIR 2009 SC 428, a company, M/s. Neemuch Emballage Ltd., Mumbai was granted financial assistance by Andhra Bank under various facilities. On account of default in repayment of loans, the bank filed a suit for recovery of the amount payable by the borrower company. The bank also filed a complaint against the company, its Managing Director and the officials of Andhra Bank for diverse offences, namely, Section 120-B read with Sections 420, 467, 468, 471 of the Indian Penal Code read with Sections 5(2) and 5(1)(d) of the Prevention of Corruption Act, 1947 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. The suit for recovery filed by the bank against the company and the Managing Director of the Company was compromised. The suit was compromised upon the Defendants agreeing to pay the amounts due as per the schedule mentioned in the consent terms. Clause 11 of the consent terms read, "agreed that save as aforesaid neither party has any claim against the other and parties do hereby withdraw all the allegations and counter-allegations made against each other". Based on Clause 11 of the consent terms, the Managing Director of the Company, the Appellant who was accused No. 3 in charge sheet filed by CBI, made application for discharge from the criminal complaint. The said application was rejected by the Special Judge (CBI), Greater Bombay, which came to be challenged before the Bombay High Court. The contention before the High Court was that since the subject matter of the dispute had been settled between the Appellant and the bank, it would be unreasonable to continue with the criminal proceedings. The High Court rejected the application for discharge from the criminal cases. It is from this order that the matter reached this Court by way of special leave. The Court having regard to the facts of the case and the earlier decision of this Court in B.S. Joshi, AIR 2003 SC 1386: (2003) 4 SCC 675, set aside the order of the High Court and quashed the criminal proceedings by consideration of the matter thus:

28. *The basic intention of the accused in this case appears to have been to misrepresent the financial status of the Company, M/s Neemuch Emballage Ltd., Mumbai, in order to avail of the credit facilities to an extent to which the Company was not entitled. In other words, the main intention of the Company and its officers was to cheat the Bank and induce it to part with additional amounts of credit to which the Company was not otherwise entitled.*

29. *Despite the ingredients and the factual content of an offence of cheating punishable Under Section 420 Indian Penal Code, the same has been made compoundable under Sub-section (2) of Section 320 Code of Criminal Procedure with the leave of the court. of course, forgery has not been included as one of the compoundable offences, but it is in such cases that the principle enunciated in B.S. Joshi case becomes relevant.*

30. *In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the Appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?*

31. *On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi case and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal*

proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise."

11. In case in hand, it is undisputed fact that, a Crime No. 0095 of 2024 was registered against the present applicants with the Jinsi Police Station for the offences punishable under Sections 323, 324, 498-A, 504, 506 r/w 34 of Indian Penal Code, 1860 on the basis of FIR lodged by the present Respondent No. 2 out of matrimonial dispute. Not only this, but subsequently, Respondent No. 2/informant again initiated three proceedings i.e. (i) Petition No. E-184 of 2024 u/s 144 of BNSS, 2023 seeking maintenance; (ii) Criminal M.A. No. 1152 of 2024 under Section 307 of IPC and (iii) Cri. M.A. No. 1379 of 2024 under Sections 3 & 4 of Muslim Women' Protection of Rights on Marriage Act. During pendency of these proceedings, the Applicants/Accused and Respondent No. 2/Informant have entered into compromise and amicably settled their matrimonial dispute. Therefore, on the basis said settlement, above stated three matrimonial cases are disposed of by the concerned Court vide order dated 13.06.2025 and Respondent No.2/wife has been cohabiting with her husband applicant/accused no. 1 and both of them are happily enjoying their married life. However, criminal proceedings bearing Regular Criminal Case No. 2276 of 2004 is pending on the file of learned 2nd Judicial Magistrate First Class, Aurangabad. Therefore, considering the law laid down in the cases cited supra as

well societal interest between the parties, it will be just and proper to quash and set aside Regular Criminal Case No. 2276 of 2004 pending on the file of learned 2nd Judicial Magistrate First Class, Aurangabad under Sec. 482 of Criminal Procedure Code, so also the charge sheet filed by the Investigation Officer in Crime No. 0095 of 2024 registered with the Jinsi Police Station for the offences punishable under Sections 323, 324,498-A, 504, 506 r/w 34 of IPC. Accordingly, we proceed to pass the following order:

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Regular Criminal Case No. 2276 of 2004 which pending on the file of learned 2nd Judicial Magistrate First Class, Aurangabad arising out of charge sheet filed in Crime No. 0095 of 2024 registered with the Jinsi Police Station, District Aurangabad for the offences punishable under Sections 323, 324,498-A, 504, 506 r/w 34 of the Indian Penal Code is hereby quash and set aside.

(Y. G. KHOBRADE, J.)

(MANISH PITALE, J.)

JPChavan