

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4740 OF 2021

- | | | | |
|----|--------------------------------------|---|-----------------|
| 1. | Bharat @ Pappu Abhiman Lokhande |] | |
| | Age about 47 years, Occ. Labour, |] | |
| | R/o. Gadegaon, Tal. Pandharpur, |] | |
| | District Solapur. |] | |
| 2. | Raghunath Abhiman Lokhande |] | |
| | Age about 43 years, Occ. Labour, |] | |
| | R/o. Gadegaon, Tal. Pandharpur, |] | |
| | District Solapur. |] | |
| 3. | Sanjay Abhiman Lokhande |] | |
| | Age about 52 years, |] | |
| | Occ. Medical Practitioner |] | |
| | R/o. Modlimb, Tal. Madha, |] | |
| | District Solapur. (Transposed) |] | ... Petitioners |
| | <u>Versus</u> | | |
| 1. | The State of Maharashtra |] | |
| | Through the Senior Police Inspector, |] | |
| | Pandharpur Taluka Police Station, |] | |
| | Pandharpur, District Solapur. |] | |
| | C.R. No. 223 of 2005. |] | |
| 2. | Mainabai Bharat Lokhande |] | |
| | Age about 32 years, Occ. Housewife, |] | |
| | C/o. Satyavan Shratughn Patole, |] | |
| | R/o. Mendhapur, Tal. Pandharpur, |] | |
| | District Solapur. |] | ... Respondents |

Mr. Sharad T. Bhosale for the Petitioners.
Mrs. S.N. Deshmukh, A.P.P. for the Respondent No.1-State.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : 14th November 2025.

JUDGMENT (Per : Ajit B. Kadethankar, J.)

1. By the present Petition, the Petitioners seek dismissal of Criminal proceedings bearing R.C.C. No. 341 of 2005 pending before the learned Judicial Magistrate First Class Pandharpur, [*hereinafter "Ld. Magistrate" for the sake of brevity*], arising out of C.R. No. 223 of 2005 registered with Pandharpur Taluka Police Station, under Sections 498A, 504, 506 read with 34 of the Indian Penal Code ("**I.P.C.**" for short).

2. This is an interesting case of its own kind. A marital dispute came to be amicably settled by the Husband (Petitioner No.1) and the wife (Respondent No.2). They severed from each other vide a Decree of Divorce and agreed to get all the cases disposed of in view of settlement in 2015.

2.1 So far as the prosecution u/s 498-A, 504, 506 read with 34 of the I.P.C., the Complainant i.e. R.No.2 filed an application before the Ld. Judicial Magistrate F.C., Pandharpur for disposal of the complaint in view of the settlement. A joint purshis was also filed by the Petitioner No.1 and the Respondent No. 2.

2.2 Surprisingly, the application filed by Complainant came to be turned down by the Ld. Magistrate as at that juncture the co accused i.e. present Petitioner No.3 objected the settlement .

3. Before dealing with the matter, its needful to record that the Pet.No. 3 is Co-accused in the R.C.C. No. 341 of 2025 pending before the Ld. Magistrate. In the case in hand, initially Pet.No. 3 was arrayed as R.No. 3. However, by the order dated 25th July 2023, the R. No.3 is transposed as Petitioner No.3 at his behest.

4. Pet.No.1 and R.No. 2 married with each other on 05-01 2005 as per Hindu rites and rituals. They are also blessed with a son, namely "Deepak". Some years after the marriage, a discord occurred in between Pet.No. 1(husband) and R.No. 2(wife). The discord resulted into filing of Marriage Petitions i.e.

- (i) H.M.P. No. 168 of 2011 (For Divorce) filed by the Pet.No. 1 and
- (ii) H.M.P. No. 123 of 2011 (For Restitution of Conjugal Rights) filed by the R.No. 2. Both proceedings were filed in the court of the Ld. Civil Judge (Senior Division), Pandharpur.

5. Suffice to note, the Wife i.e. R.No. 2 lodged criminal prosecution against the Petitioner No.1 and his real brothers as also against his mother. During the course of time, Petitioner No.1's mother expired. Present Pet.No. 3, who happened to be real brother of Petitioner Nos. 1 and 2, was a co-accused before the Ld. Magistrate in the aforesaid prosecution which has culminated into a Trial u/s 498-A, 504, 506 read with 34 of the I.P.C.

6. In the course of time, an amicable settlement arrived in between the Pet.No. 1 (husband) and the R.No. 2 (wife), whereby they decided to discontinue the marital relationship amicably. In view of this, both the proceedings i.e. H.M.P. No. 168 of 2011 as also H.M.P. No. 123 of 2011 pending before the learned Civil Judge Senior Division, Pandharpur came to be disposed of.

7. In view of the final settlement arrived in between the parties, both the parties also filed an application before the learned Magistrate in R.C.C. No. 341 of 2005 to settle the criminal case and to dispose it of. Suffice to note, a joint purshis was also filed before the learned Magistrate.

8. However, the present Pet.No.3 objected the settlement, contending that he was not ready for the compromise. Observing that the co accused has objected the settlement and dismissal of the complaint, the learned Magistrate pleased to reject the application for settlement and disposal.

9. Mr. Bhosale, Id. Counsel for Petitioners would submit that the learned Trial Court ought to have considered if the complainant was willing to settle the case which arose out of the marital discord with her husband, the learned Magistrate ought to have settled the case and ought to have ended the prosecution, without considering the objection of the present Petitioner No.3.

10. Mr. Bhosale would further submit that the approach of the Id. Magistrate was not at all justifiable in the given facts and circumstances. He would add that during the pendency of the present Writ Petition, the objector brother has now agreed and accepted the settlement and has already been transposed as Pet.No. 3 in support of present Petition at his own behest.

11. Mr. Bhosale, Id. counsel submits that in the given circumstances this is a fit case wherein interference of this Court is warranted to terminate the pending criminal prosecution referred above.

12. Mrs. Deshmukh, learned A.P.P. fairly agrees that while the husband and wife have settled their issues and have severed their marital relations by filing the application at Exh.128 coupled with Pursis at Exh.129, learned Trial Court ought to have disposed of and closed the proceedings. She would submit that suitable order be passed in view of the subsequent development.

13. From the record it reveals that the marital relationship in between the Pet.No. 1 (husband) and R.No. 2 (wife) has ended long back in the year 2015 itself. This was mutual settlement which resulted into termination of the marital relationship. The application to dismiss the criminal prosecution in R.C.C. No. 341 of 2005 was filed by the Respondent No.2 (wife) herself with her free will, also under the signature of the Petitioner No.1 (husband).

14. Irrespective of the fact that the Pet.No.3 objected the settlement, the Id. Magistrate ought to have adopted realistic and judicious approach to end the criminal prosecution at the behest of the parties.

15. May it be, we find that the marital litigation in between the Pet.No. 1 and R.No. 2 have already ended up by way of mutual settlement. R.No. 2 herself has prayed to the Court to dispose the criminal prosecution and has clearly shown that she is not at all interested to prosecute the proceedings. Under such circumstances, continuation of prosecution would be nothing but an otiose exercise and obviously an abuse of process in its true sense. If not disposed of by way of termination of the proceedings, such litigation may keep the wounds of the parties open and leave further unfortunate marks on the lives of the parties.

16. We absolutely have no second thought in our minds to express that the Courts must adopt a pragmatic approach and must not venture to continue such proceedings for any unjustifiable and unrealistic reason.

17. In view of above, and for the reasons stated above, we pass following order :

- (A) The Writ Petition stands allowed in terms of prayer clause (b).

(B) Resultantly, Criminal proceeding bearing R.C.C. No. 341 of 2005 pending before the learned Judicial Magistrate First Class, Pandharpur arising out of C.R. No. 223 of 2005 registered with Pandharpur Taluka Police Station, stands dismissed.

Order accordingly.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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