



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

Criminal Application (APL) No. 248 of 2022

1. Rohit S/o Rajaram Mali,
Age : 26 years, Occ. Private
R/o Shramsaflay B Wing, Ganesh Nagar,
Pimpri, Pune
2. Rajaram S/o Krishna Mali,
Age : 58 years, Occ. Service
3. Sau. Sanjivni Rajaram Mali,
Age : 45 years, Occ. Housewife
4. Deepika Rajaram Mali,
Age : 22 years, Occ. Student
All 2 to 4 Having their address for service at
R/o Sector No. 83/2, Sudarshan Nagar, Pune
5. Krishnant S/o Baburao Alsul
Age : 60 years, Occ. Private
R/o Shivsadan 242, Indraprasth Housing
Society, Hadaspur, Pune

... Applicants

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer, Police Station
Dhantoli, District Nagpur
2. Sau. Nikita Rohit Mali,
Age : 26 years, Occ. Private
R/o A-202, Saraswati Enclave, Sector 34C,
Kharghar-410210
Also At
Plot No. 22, Ujwala Society,
Narendranagar, Nagpur

... Non-applicants

Shri R.M.Tahaliyani, Advocate for the applicants.
Shri S.S.Doifode, APP for the non-applicant/State.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 3rd APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of the Code of Criminal Procedure, applicants seeks to quash and set aside Charge-Sheet No. 14 of 2015 dated 3rd March, 2015 arising out of Crime No. 171 of 2014 dated 5th January, 2014 registered with Police Station Dhantoli for the offence punishable under Sections 498-A, 323, 506 and Section 34 of Indian Penal Code.

3. In the present case, the learned counsel appearing for the applicants before advancing any submission on merits pointed out that on 12th September, 2024, he has filed pursis on record to demonstrate the fact that present non-applicant no.2 had performed re-marriage with one Shashikant Mahajan and out of said wedlock she has given birth to male child on 20th July, 2017. The perusal of said birth certificate confirmed the fact that present non-applicant no.2 and mother of child is the same

person. Furthermore, the name of father of child is stated as Shashikant Mahajan. Thus, it is stated that due to performing of re-marriage, the non-applicant no.2 is not interested to prosecute the criminal proceeding against the applicants and ready to compromise the matter. However, out of fear that her attendance before Court will affect her marital life, she is not coming forward to state that in view of amicable settlement between parties, criminal prosecution pending against applicants be quashed and set aside.

4. Learned counsel for the applicants to substantiate his submission stated that the non-applicant no.2 had also filed Misc. Criminal Case No. 2450 of 2014 under Section 12 of Domestic Violence Act 2005 against the present applicants. In the said matter also she has not attended the said matter since 1st April, 2017. As such, learned Judicial Magistrate First Class, Nagpur on 17th March, 2018 by recording the findings that non-applicant no.2 is not interested to conduct the proceeding, dismissed Misc. Criminal Case No. 2450 of 2014 for want of prosecution.

5. It is further stated by applicants that after dismissal of matter, no steps were taken by the non-applicant no.2 in Misc. Criminal Case No. 2450 of 2024 either to restore or to challenge the said order before any higher Court. Hence, it is clear that she is not interested to prosecute any case against the applicants.

6. That considering the submissions made by applicants, we have perused the docket of this application. The perusal of the same shows that on certain dates the matter has been adjourned on the ground that talks of compromise are going on between the parties. Thereafter, she choose to remain absent in the present matter though twice notice has been served on her. Therefore, there is a reason to believe the submissions of the applicants that due to re-marriage of non-applicant no.2 she is not interested to prosecute the present matter against the applicants.

7. Learned counsel for the applicants relied upon the judgment of Hon'ble Supreme Court of India in the case of Narinder Singh and others Vs. State of Punjab and another reported in 2014(6) SCC 466 and in the case of Madan Mohan Abbot Vs. State of Punjab reported in

2008(4) SCC 582 to state that, in disputes where the question involved matrimonial discord, the Court should ordinarily accept the compromise particularly where the possibility of conviction is remote and bleak. The Court should exercise the powers under Section 482 and can dispose of the matter by quashing and setting aside the criminal proceedings.

8. In the present case considering the submissions of the applicants and the fact that in other matrimonial proceedings also, non-applicant no.2 seen to be not interested to prosecute applicants and same was dismissed for want of prosecution and till date no steps were taken by non-applicant no.2 in the said matter, we are of the opinion that there is no reason to keep continue the present criminal proceedings against the applicants.

9. In addition to above, we have also perused the First Information Report and the charge-sheet filed against the applicants in the matter. Bare perusal of the record shows that the allegations against the applicants are of vague and omnibus in nature. *Prima facie*, pre-requisites of Section 498-A of Indian Penal Code are not satisfied though the allegations are accepted at its face value in its entirety. Hence, on

merits also, the First Information Report and charge-sheet does not constitute offence under Section 498-A of Indian Penal Code against applicants. Hence, we are of the opinion that considering overall factual as well as legal position, the criminal proceedings registered against the applicants is liable to be quashed and set aside. Hence, we proceed to pass the following order:

ORDER

- i. Criminal application is allowed
- ii. Charge-Sheet No. 14 of 2015 dated 3rd March, 2015 arising out of Crime No. 171 of 2014 dated 5th January, 2014 registered with Police Station Dhantoli for the offence punishable under Sections 498-A, 323, 506 and Section 34 of Indian Penal Code is hereby quashed and set aside against the applicant no.1 - **Rohit S/o Rajaram Mali**, applicant no.2 - **Rajaram S/o Krishna Mali**, applicant no. 3 - **Sau. Sanjivni Rajaram Mali**, applicant no. 4 - **Deepika Rajaram Mali** and applicant no. 5 - **Krishnant S/o Baburao Alsul**.

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]