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

CRIMINAL WRIT PETITION NO.780 OF 2024

Sau. Pradnya Virendra Dudhe,
(Maiden Name Pradnya Kishor Rannavare)
Aged about 33 Years,
Occupation : Service,
R/o. Bothali (Natala),
Post : Kharangana,
Tahsil : Arvi, District Wardha. **PETITIONER**

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Wardha (City), District Wardha.
2. Shri Virendra Natthuji Dudhe,
Aged about 34 Years,
Occupation : Labour,
R/o. Pathari, Post : Giroli,
Tahsil : Deoli, District Wardha. **RESPONDENTS**

Mr. A. P. Thakare, Counsel for the petitioner.
Mr. M. J. Khan, APP for respondent No.1/State.
Mr. A. S. Moon, Counsel for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06.01.2025

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith.
2. Heard learned Counsel for the petitioner and learned
APP for the State.

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3. The writ petition is directed against the order dated 28.03.2024 passed by the learned Chief Judicial Magistrate, Wardha in Regular Criminal Case No.809/2022, rejecting the application for permission to compound an offence under Section 498-A of the Indian Penal Code (for short 'the IPC').

4. The petitioner Pradnya Virendra Dudhe and respondent No.2 Virendra Nathuji Dudhe are the husband and wife. After marriage for some period they cohabitated with each other and subsequently, there was discord between them and therefore, the petitioner had filed the case i.e. Domestic Violence Act, bearing No.P.W.D.V.A. No.135/2022 against the respondent No.2. She had also filed a complaint under Section 498-A of IPC against the respondent No.2 and it was alleged that she was ill-treated and subjected to cruelty at the hands of respondent No.2. The said case was registered as Regular Criminal Case No.809/2022. When both the cases were pending in Wardha before the appropriate Court. The petitioner and respondent No.2 decided to settle the dispute, and therefore, the matter was referred for mediation. During the mediation process, they both have decided that the reunion between both of them is not possible due to the difference of opinion and they would obtain the divorce by mutual consent under Section 13-B of the Hindu Marriage Act. As per the terms and settlement between the petitioner and respondent No.2, it was

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further decided that the petitioner shall withdraw the cases filed by the petitioner against the respondent No.2 and therefore, they approached to the learned Chief Judicial Magistrate, Wardha for compounding the offence under Section 498-A of the IPC, in view of Section 320 of the Code of Criminal Procedure. However, the learned Chief Judicial Magistrate, Wardha has rejected the application on the ground that offence under Section 498-A of IPC is non-compoundable by passing order on 28.03.2024.

5. Heard learned Counsel for the petitioner. He submitted that considering the fact that now both parties arrived at a settlement before the Mediator and the mediation report is also before the Court. The concerned Court ought to have grant permission to compound the offence, however, the learned Chief Judicial Magistrate has wrongly considered the provision and rejected the application. In support of his contention he placed reliance on **Suresh Nathmal Rathi and others Vs. State of Maharashtra and another** reported in **1991(2) Mh.L.J. 1106** and **Radhabai w/o Ramesh Malegave and others Vs. State of Maharashtra and another** reported in **1992 (2) Bom C.R. 459** and submitted in both the cases the facts are identical wherein they have decided either to live separately or to live together and considering there was settlement between the parties and though offence was not compoundable, it was permitted to compound the

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offence. The nature of the offence is matrimonial and considering the relationship between the parties, the parties to be permitted to compound the offence.

6. Per contra, learned APP strongly opposed the said petition on the ground that there is an alternate remedy available to the present petitioner and she can approach to the Division Bench for quashing of the FIR, in view of that, the petition deserves to be dismissed.

7. After hearing both sides and on perusal of the two Judgments on which the petitioner placed reliance on, it reveals that the facts involved in both decisions are identical with the present case. In the present case also the parties have already settled the dispute amicably and they both have decided to obtain the decree for dissolution of their marriage. The learned Chief Judicial Magistrate rejected the permission on the ground that the alleged offence was not compoundable. It has been held in the case of **Suresh Nathmal Rathi** (referred supra) that peculiar and special circumstances of the cases are to be considered and if the Court is satisfied, then the parties should be allowed to compromise the matter keeping in view the welfare of the parties and the relationship between the parties. The position of law is stated in the said judgment.

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8. The allegation under Section 498-A of IPC is made against the husband and the relations are strained because of such allegations, the matter was referred for mediation. The Mediator has ascertained the facts and thereafter, due to the mediation, the matter was settled and the parties have decided to dissolve their marriage.

9. The observation of this Court in the case of **Suresh Nathmal Rathi** (referred supra) is relevant that the matrimonial relations between the husband and the wife should, as far as possible, be not allowed to severe and the required provisions are also made in the Hindu Marriage Act under which the Court is called upon to see that the matrimonial relations are not put to an end to, but on the other hand, both husband and wife should live and lead a happy married life.

10. Here in the present case, due to the strained relationship, they have decided to dissolve the marriage amicably is also a fact that requires to be taken into consideration and therefore, considering the nature of the proceeding, it would be appropriate to permit them to compound the offence and therefore, the petition deserves to be allowed. In view of that, I proceed to pass following order:

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ORDER

- (i) The writ petition is allowed.
- (ii) The impugned order passed by the learned Chief Judicial Magistrate, Wardha dated 28.03.2024 is hereby quashed and set aside.
- (iii) The learned Magistrate is directed to accord the necessary permission to compound the offence as prayed for by the parties.

- 11. Rule is made absolute.
- 12. There shall be no order as to the costs.

(URMILA JOSHI-PHALKE, J.)

Sarkate.