

**ORDER BELOW EXH. 61 IN R. C. C. No. 125/2016**

1] This is an application submitted by accused No. 4 to 9 for their discharge under Section 498A, 323, 504, 506 read with Section 34 of Indian Penal Code, vide Section 239 of Code of Criminal Procedure. The basic contention of accused is that, they are distant relatives of accused No. 1. They have no role against the alleged offences. The learned A. P. P. resisted this application on the ground that, there is sufficient material for framing charge against accused persons. Heard both sides at length.

2] Learned counsel M. J. Bagul for accused submits the ruling of the Hon'ble Supreme Court in the case of ***Chandralekha and others Vs. State of Rajasthan, 2013 (1) Bom. C. R. (Cri.) 577***. In my opinion, this ruling is not a precedent, because, it deals with the powers of Hon'ble High Court in quashing the F. I. R. under Section 482 of Code of Criminal Procedure.

3] Before parting with this application, it is germane to be mentioned that, there is a recent directions of Hon'ble Supreme Court in the case of ***Rajesh Sharma and others Vs. State of U. P. and another, Criminal Appeal No. 1265 of 2017, decided on 27<sup>th</sup> July 2017***, wherein, it has been directed by their Lordships in paragraph No. 19

that, the cases under Section 498A of Indian Penal Code shall be necessarily looked into by Family Welfare Committee. Every complaint under Section 498A of Indian Penal Code received by Magistrate shall be looked into by such Committee. Till the report of committee, no arrest shall be made.

4] Hence, considering the above rule of law, it is devoid of mandate to pass any order below this application for discharge of accused. It would be premature to consider the allegations unless, there is a report of Family Welfare Committee. There are directions of the Hon'ble Supreme Court that, parties to adopt mediation also for settlement. The judgment of Hon'ble Supreme Court in the case of **Rajesh Sharma** cannot be over looked. This Court is supposed to follow the directions of Hon'ble Supreme Court. I deem it improper to segregate the inculpatory and exculpatory material against present accused. It would be a premature step. Let there be a report of Family Welfare Committee, Amalner. Resultantly, I pass following order.

### **ORDER**

- 1] Application is rejected.
- 2] Learned A. P. P. is directed to place this case before Family Welfare Committee, Amalner.

3] Accused are also directed to approach before the Family Welfare Committee, Amalner.

4] Issue summons to the informant and her family members for intimation about this progress.

5] The concerned clerk to intimate the Hon'ble Sessions Court, Amalner.

(Wahab A. Syed)

Date: 07-10-2017 Judicial Magistrate, F. C. Amalner

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of Stenographer : A. S. Rane

Name of the Court : 2<sup>nd</sup> Jt. C.J.J.D & J.M.F.C.,  
Amalner (Dist. Jalgaon)

Date of Order : 07-10-2017

Order signed by the : 09-10-2017  
presiding Officer on

Order upload on : 09-10-2017