

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 36 OF 2015

RAKESH S/O RAMESH PANJWANI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Kakde Yuvraj V.
APP for Respondent/State : Mrs. S.G. Chincholkar
Advocate for Respondent no.2 : Mr. Autade Kaias B.

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: March 02, 2015

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PER COURT :-

This petition has been filed by the petitioner for quashing and setting aside R.T.C. No. 17/2010 pending before Ld. J.M.F.C. Ahmednagar, in connection with the Charge sheet bearing No. 76/2009 filed on 29.07.2009 for the offence punishable u/Sec. 498-A, 323, 504 r/w 34 of I.P.C.

2. Respondent No.2 i.e. original complainant has filed an affidavit. Paragraphs 1 and 2 of the said affidavit reads, thus:

“1. I say and submit that I have gone through the contents of Cri.Writ Petition an Annexure thereon, as per the contents raised by the Petitioners the Decree of divorce by mutual consent which passed by Family Court, Pune.

2. I have received amount mentioned in Compromise proceeding and I have no objection to quash the proceeding pending before the learned J.M.F.C. Court No.11, Ahmednagar.”

3. Upon reading averments in the Petition and annexures thereto and the affidavit filed by Respondent No.2, it appears that, already decree of divorce by mutual consent has been passed by the Family Court, Pune. In that view of the matter, the parties have decided to set at rest the further dispute including the proceedings pending before J.M.F.C. Court No.11, Ahmednagar.

4. The Division Bench of this Court in case of **Sitaram Madhavrao Wagh & Anr vs District Superintendent of Police & ors.**¹ in para 13 of the judgment observed that the scope and ambit of powers of this Court conferred under section 482 of the Code of Criminal Procedure are enunciated in the Judgment of the Apex Court in the case of *Gian Singh Vs. State of Punjab* and another reported in 2012(4) Bom.C.R.(Cri) 428. The Apex Court observed that the High Court while exercising powers under section 482 of the Code of Criminal Procedure, must

1 2014(1) Bom.C.R. (Cri)1.

have due regard to the nature and gravity of the crime and the same has to be exercised in accordance with the guideline en-grafted in such power viz, (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

5. In that view of the matter, further continuation of the proceedings based on R.T.C. No. 17/2010 pending before Ld.J.M.F.C. Ahmednagar, in connection with the Charge Sheet bearing No. 76/2009 filed on 29.07.2009 for the offence punishable u/Sec. 498-A, 323, 504 r/w 34 of I.P.C., will be an exercise in futility.

6. Hence, following order:

ORDER

(i) R.T.C. No. 17/2010 pending before Ld.J.M.F.C. Ahmednagar, in connection with the Charge Sheet bearing No. 76/2009 filed on 29.07.2009 for the offence punishable u/Sec. 498-A, 323, 504 r/w 34 of I.P.C. is quashed and set aside;

(ii) Rule is made absolute in the above terms.

(**A.M. BADAR, J.**)

(**S.S. SHINDE, J.**)

