IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 970 OF 2012

DINESH GURUPRASAD TIWARI AND ORS
VERSUS
THE STATE OF MAH AND ANR
...
Advocate for Applicants : Mr. Bhosle Santosh C.
APP for Respondent/State : Mr. A.V. Deshmukh
Advocate for Respondent no.2 : Mr. Shinde Ravindra S.
...
CORAM : S.S. SHINDE & A. I. S. CHEEMA, JJ.
Dated: June 26, 2015
...

PER COURT :-

Rule. Rule made returnable forthwith and heard finally by consent of the learned counsel appearing for the parties.

2. This application is filed, praying therein for quashing and setting aside R.C.C. No. 332/2011 and F.I.R. bearing C.R. No. 255/2011 registered at Dharangaon Police Station on 18/12/2011 under Sections 498A, 406, 448, 323, 504, 506 r/w 34 of Indian Penal Code.

3. In pursuance to the notices issued to the respondents, Respondent no.2 has filed her affidavit and

even the applicant no.1 has also filed affidavit. It appears that, applicant no.1 and respondent no.2- complainant filed H.M.P. No. 18 of 2014 in the Court of Civil Judge, Senior Division, Bhokar under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of marriage. The learned counsel appearing for the applicants has tendered across bar photocopy of the order dated 22nd June, 2015 passed by the Civil Judge, Senior Division, Bhokar allowing the H.M.P. No. 18/2014. The marriage dated 14.05.2006 between applicant no.1 and respondent no.2 herein, stands dissolved by virtue of the said order. The copy of the said order is taken on record and marked as `X' for identification.

4. The applicant no.1 in his further affidavit in support of main application filed on 3rd February, 2015 in para 3 has stated thus:-

> "3. That, I say that, in view of amicable settlement between me and my wife. As a permanent alimony I am paying Rs. 7,00,000/- towards permanent alimony to her and we were decided to live separately and we have also filed the Divorce Petition U/s 13(b) of the Hindu Marriage Act for divorce on 21.11.2014 before Hon'ble Civil Judge, Senior Division, Bhokar. I say and submit that, we were decided to live separately in future and also in future we will not file any complaint against each other in any court of law."

5. Respondent No.2 has also filed affidavit on 3rd February, 2015. The paras 2 and 3 of the said affidavit read thus :-

> "2. That, I have filed following petition against the applicants and the same were withdrawn as follows :-
>
> (a) Criminal Case No. 18/2012-private complaint U/s 504, 506 r/w 34 of I.P.C. and the same was withdrawn on 13.12.2014.
>
> (b) Criminal Misc. Application No. 85/2012, which is filed under Domestic Violence Act, the same was withdrawn on 13.12.2014.
> (c) Criminal Misc. Application No. 122/2012, an application for maintenance U/s 125 of the Cr.P.C. and the same was withdrawn on 13.12.2014.
>
> 3. That, I say that, in view of amicable settlement between me and my husband. As a permanent alimony my husband i.e. applicant no.1 is paying me Rs. 7,00,000/- towards permanent alimony and we have decided to live separately and we have filed the Divorce Petition U/s 13(b) of the Hindu Marriage Act for divorce on 21.11.2014 before Hon'ble Civil Judge, Senior Division, Bhokar. I say and submit that, we were decided to live separately in future and also in future we will not file any complaint against each other in any court of law."

6. If the averments in the affidavit of the applicant no.1 and respondent no.2 are read conjointly, the position which emerges is that, applicant no.1 and respondent no.2 have filed H.M.P. No. 18/2014 before the Civil Judge, Senior

Division, Bhokar and their marriage has been dissolved. So also Respondent No.2 has received Rs. 7,00,000/- from the applicant no.1 towards permanent alimony.

7. Applicant no.1 and respondent no.2 are present before this Court. On interacting with them, they stated that, the settlement is their voluntary act, which resulted into decree of divorce. In that view of the matter, in order to secure ends of justice and avoid abuse of process of Court, the application deserves to be allowed.

8. Accordingly Rule made absolute in terms of prayer clause `C'. The application is disposed of.

(**A. I. S. CHEEMA, J.**) (**S.S. SHINDE, J.**)

...

sga/-