

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.958 OF 2015

1) Gangadhar s/o Deochand Mahale,
Age-60 years, Occu:Pensioner/Agri.,

2) Ushabai w/o Gangadhar Mahale,
Age-42 years, Occu:Housewife,

Both R/o- At Post-Panchak,
Tq-Chopda, Dist-Jalgaon,

3) Pankaj s/o Gangadhar Mahale,
Age-37 years, Occu:Service,
R/o-B-Wing, 506, Rajmandir
Cooperative Housing Society,
Hatkesh, Mira Road (East),
Thane, Tq. & Dist-Thane,

4) Sandeep s/o Gangadhar Mahale,
Age-30 years, Occu:Service,
R/o-Datta Colony, Amalner,
Tq-Amalner, Dist-Jalgaon,

5) Chandan w/o Anil Patil,
Age-36 years, Occu:Service,

6) Anil s/o Laxman Patil,
Age-39 years, Occu:Service,

Both R/o-Karwand Naka,
Shirpur, Tq-Shirpur,
Dist-Dhule.

...APPLICANTS
(Original Accused)

VERSUS

- 1) The State of Maharashtra,
- 2) Swarangi w/o Pankaj Mahale,
Age-33 years, Occu:Household,
R/o-Plot No.21, Arti Colony,
Patil Wada, Deopur, Dhule,
Tq. & Dist-Dhule.

...RESPONDENTS

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Mr.Ravindra M. Deshmukh Advocate for
Applicants.

Mr.S.B. Pulkundwar, A.P.P. for Respondent No.1.

Mr.B.S. Deokar Advocate for Respondent No.2.

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**CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.**

DATE : 15TH JULY, 2015

ORAL ORDER :

1. Not on Board. Taken on Board.
2. Rule, made returnable forthwith and heard finally with consent of the parties.
3. This Application was heard by this Court on 23rd February 2015. On the said date, the counsel appearing for the Applicants and counsel

appearing for Respondent No.2 jointly submitted that the settlement has been arrived between the parties and they have decided to initiate proceedings for divorce with mutual consent before the Civil Judge, Senior Division, Thane. This Court deferred the hearing of this Application till the proceedings for divorce with mutual consent are initiated.

4. Learned counsel appearing for the Applicants and Respondent No.2 jointly submits that the Court of Civil Judge, Senior Division at Thane has allowed the Marriage Petition No.265 of 2014 and declared that marital life between Applicant Nos.1 and 2 therein has come to an end. Accordingly, the concerned Court has passed the decree of divorce with mutual consent. Learned counsel appearing for the Applicants has tendered across the Bar, photo copy of the Judgment and decree passed by the Civil Judge, Senior Division, Thane in Marriage Petition No.265 of 2014, dated

23rd March, 2015. The same is taken on record and marked as "X" for identification purpose.

5. The learned counsel for the Applicants has tendered across the Bar affidavit of Applicant No.3 on behalf of himself and other Applicants. The same is taken on record. The learned counsel appearing for Respondent No.2 has also tendered across the Bar affidavit of Respondent No.2. The same is taken on record.

6. It is stated by the Applicants in the affidavit that parties were referred before Mediator for mediation. Accordingly Respondent No.2 and Applicant No.3 appeared before the Mediator and agreed to initiate the proceedings for divorce with mutual consent and accordingly the proceedings were initiated. The learned Civil Judge, Senior Division, Thane by its Judgment and Order dated 23rd March 2015 has allowed the said Marriage Petition No.265 of 2014 in view of the

consent terms for divorce submitted by Respondent No.2 and Applicant No.3 before the said Court.

7. The Respondent No.2 has also stated in Para 3 of the affidavit-in-reply that matter was settled between both the parties before the Mediator on certain conditions. Accordingly, Applicant No.3 and Respondent No.2 applied for divorce with mutual consent and decree is passed by the concerned Court. It is stated that Respondent No.2 is ready to abide by the consent terms. The matter is settled between Respondent No.2 and Applicant No.3. Respondent No.2 is having no any complaint regarding consent terms. All formalities, as per the consent terms, have been complied with by both the parties.

8. Applicant No.3 is present before the Court and is identified by his Advocate. Respondent No.2, who is present in the Court, is also identified by the Advocate appearing for her.

9. In the light of settlement arrived at between the parties and the fact that in pursuance to conditions of said settlement, Applicant No.3 and Respondent No.2 applied for divorce with mutual consent and accordingly the decree is passed by the concerned Court and Respondent No.2, in her affidavit, stated and it is argued that she does not wish to further continue proceedings based upon Crime No.145 of 2014 registered with Deopur Police Station, Dhule for the offence punishable under Section 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code. Therefore in the light of exposition 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*** , in order to secure the ends of justice and to prevent abuse of the process of Court, the further proceedings based upon Crime No.145 of 2014, are required to be quashed and set aside.

10. Rule made absolute in terms of prayer
clause (C) of the Application. Application
stands disposed of, accordingly.

[A.I.S.CHEEMA, J.]

asb/JUL15

[S.S.SHINDE, J.]