

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.7001 OF 2014
WITH
CRIMINAL APPLICATION NO.1430 OF 2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.A.R.Devakate, Mr.V.R.Dhorde, advocates for the Applicants.
Mr.D.R.Kale, A.P.P for the State.

CORAM : S.V.GANGAPURWALA AND V.K.JADHAV, JJ.
Date : 01.12.2015.

PER COURT :

1. Heard.
2. The present application is filed for quashing Sessions Case No.386 of 2012. The original complainant has filed affidavit stating that the complaint FIR bearing CR No.253/2012 was filed under misconception of facts and due to misunderstanding.
3. The proceedings are for offence punishable U/ss. 366, 376 read with Section 34 of the I.P.C. The same certainly can not be compounded.
4. We have heard learned A.P.P also.
5. We have considered the complaint itself. It has come on

record that the applicant had filed HMP No.99/2014 U/s 9 of the Hindu Marriage Act, on the ground that the marriage had taken place and that the complainant herein did not perform the marital obligations.

6. The complainant had also filed RCS No.235/2014 for declaration that the marriage be declared as null and void. The complainant and accused have settled HMP No.99/2014 and RCS No.235/2014 and both these proceedings are disposed of, in view of the settlement between them.

7. It appears that parties were under bonafide impression that the marriage had taken place and thereafter the acts alleged in the complaint have been performed. The same does not depict any element of coercion, fraud or misrepresentation. However, it appears that both the parties were under the impression about the marriage and pursuant thereto the said acts seem to have been committed. The complainant and the accused both are major. If an act is consensual, the same certainly can not be said to be by fraud. Some procedure of marriage is seem to have been performed and pursuant thereto the deeds and acts mentioned in the complaint have taken place. The same would not come within the ambit and purview of fraud or misrepresentation but same are consensual.

8. In light of the above, Sessions Case bearing No.386/2012 is

quashed and set aside.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.01.12.2015.
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