

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2221 OF 2014

Sujay Suresh Kapde (Patil)  
and others

... APPLICANTS

VERSUS

The State of Maharashtra  
and another

... RESPONDENTS

.....

Shri Joydeep Chatterji, Advocate for applicants  
Shri S.B. Pulkundwar, A.P.P. for respondent No.1/ State  
Shri A.S. Sawant, Advocate for respondent No.2

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

DATED:    15th July, 2015.

ORAL ORDER :

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

2.            This petition is filed with the following prayer :

(B) The F.I.R. - Crime No.204/2013 dated 14.12.2013 registered at Sakri Police Station, District Dhule (Exh.A) and all criminal proceedings arising therefrom may kindly be quashed and set aside.

2.            Learned counsel appearing for the applicant has also

placed on record copy of the decree for divorce, passed by the Civil Judge, Senior Division, Amalner.

3. In pursuance to the notices issued, the respondent No.2 has filed affidavit-in-reply. Paras 2 to 5 of the said affidavit-in-reply read thus :

2. I say and submit that the marriage of the present respondent was performed with the applicant No.1. After marriage the dispute was cropped up between the applicant no.1 and the present respondent. Therefore, the present respondent lodged the complaint on 14.12.2013 against the applicants herein.

3. I say and submit that thereafter because of the intervention of the respectable persons, the amicable settlement was arrived at between the applicant no.1 and the present respondent. Accordingly, the applicant no.1 and the present respondent filed HMP No.178/2014 before the Civil Judge Senior Division, Amalner, praying for divorce by mutual consent. Accordingly, on 09.03.2015, the learned Civil Judge, Senior Division, Ahmednagar was pleased to pass an order in HMP No.178/2014 and thereby as per Section 13[B] of the Hindu Marriage Act, decree of divorce came to be passed. Hereto annexed and marked as **ANNEXURE-R1** is the copy of Judgment and Decree passed by the learned Civil Judge Senior Division, Ahmednagar, on 09.03.2015 in HMP No.178/2014.

4. I say and submit that as per the settlement between the applicant no.1 and the present respondent, it was agreed that the complaints/ proceedings lodged by the applicant No.1 and present respondent against each other shall be withdrawn on account of settlement. As per the settlement and considering the decree of divorce passed by the learned Court, the present respondent has no objection for allowing the present application in respect of praying for quashment of the complaint lodged by the applicant.

5. I say and submit that as per the settlement matrimonial dispute between the applicant no.1 and the present respondent has been resolved. Accordingly, the

decree of divorce came to be passed. both the applicant no.1 and the present respondent have decided to leave peacefully in future. Considering the same, it is necessary in the interest of justice the present Criminal Application is required to be allowed considering the settlement arrived at between the parties."

4. Counsel for applicants and respondent No.2 jointly submits that, matter is settled between the parties. The applicant and respondent No.2, who are present before this Court, are identified by the respective Advocates. We have carefully considered the averments in the application, annexures thereto and also the averments in the affidavit-in-reply on behalf of respondent No.2 and we are of the opinion that, continuation of further proceedings based upon F.I.R. - Crime No.204/2013, registered on 14.12.2013, registered at Sakri Police Station, District Dhule will be exercise in futility and abuse of the process of the Court. Therefore, in order to secure ends of justice and prevent abuse of process of Court, we are inclined to allow this application. Criminal Application is allowed in terms of prayer clause (B) and disposed of. Rule made absolute accordingly.

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

( S.S. SHINDE, J.)