

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2138 OF 2015

SHEKHAR S/O RAJENDRA DHIWAR AND ORS.
VERSUS
THE STATE OF MAHARASHTRA & ANR.

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Advocate for Applicant : Mr. Rahul G. Joshi
APP for Respondent/State : Mr. V.D. Godbharale
Advocate for Respondent no.2 : Mr. A.B. Gondhale

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

Dated: June 26, 2015

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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 Charge-sheet No. 205/2013 dated 11.09.2013 in R.C.C. No. 1548/2013 pending before the Chief Judicial Magistrate, Aurangabad under Sections 498-A, 323, 504, 506, 34 of I.P. Code (Crime no. 158/2013 dated 17.04.2013 registered by Kranti Chowk Police Station).

3. In pursuance to the notices issued to the respondents, applicant no.1 and non-applicant no.2 have filed joint affidavit. Paras 2 and 3 of the said affidavit read thus :-

“2. That, deponents also state on oath that they filed petition for mutual consent divorce before Ld. Civil Judge, Senior Division at Ahmednagar, which is pending. The non-applicant no.2 wife also withdrawn all cases filed by her and in compromise purshis also undertakes to close the Criminal Proceeding i.e. R.C.C. No. 1548/2013 pending before Ld. Chief Judicial Magistrate, Aurangabad. In respect of lodging the crime no. 158/2013 dt. 17/04/2013 U/s-498-A, 323, 504, 506, 34 of I.P.C.

3. That the deponent Dhanvarsha received notice of Criminal application No. 2138 of 2015 and today in person appear before the Hon'ble Court and give free voluntary consent by way of this affidavit to close the above stated Criminal proceeding pending against applicants i.e./R.C.C. no. 1548/2013 pending before Ld. Chief Judicial Magistrate, Aurangabad.”

4. Applicant no.1 and non-applicant no.2 are present before this Court. They are identified by learned counsel appearing for them. On interacting with the complainant, she stated that, with free will and without any coercion, she entered into a compromise and filed the affidavit. The applicant, who is present before this Court

also stated that, he has withdrawn all cases instituted against respondent no.2. In that view of the matter, when applicant and respondent no.2 have decided to set at rest the dispute/controversy arose between them by mutual consent, no fruitful purpose would be served by keeping the proceeding pending arising out of F.I.R. No. 158/2013 dated 17/04/2013 under Section 498-A, 323, 504, 506, 34 of I.P. Code.

5. In that view of the matter, in order to secure the ends of justice and avoid abuse of process of Court, the application deserves to be allowed.

6. Accordingly Rule made absolute in terms of prayer clause 'B'. The application is disposed of in above terms.

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

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

sga/-

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