

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5957 OF 2014

SHAIKH SAYEED ABDUL MUQEED AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Thoke Dhananjay B.
APP for Respondent/State : Mrs. S.G. Chincholkar
Advocate for Respondent no.2 : Mr. S. T. Pawar

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: March 02, 2015

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PER COURT :-

This application is filed with following prayer :-

"B) By appropriate order or direction the Crime bearing No. 80/2014 registered with the Chalisgaon Police Station, Chalisgaon dated 15.03.2014 for the offences punishable under Sections 498(A), 406, 323, 504 read with section 34 of the Indian Penal Code may kindly be quashed."

2. In pursuant to the notices issued to the respondents, the learned Additional Public Prosecutor has caused appearance for Respondent No.1 and Mrs. Seema T. Pawar has caused appearance for Respondent No.2. The parties filed the affidavit in respect of settlement between the parties. However, the same was joint affidavit and same advocate represented for both applicant and Respondent

No.2, therefore, the parties were directed to file separate affidavit of Respondent No.2.

3. The learned counsel appearing for Respondent No.2 has tendered across bar affidavit filed by Respondent No.2. Respondent No.2 is present before this Court. On interacting with her, she stated that, the settlement between the parties is not out of coercion and same is with free will. The paras 2 to 4 of the affidavit of Respondent no.2 reads as under :-

"02. That, the complainant filed the complaint with the Chalisgaon Police on 15.03.2014 u/s 498-A, 406, 323, 504 read with section 34 of the Indian Penal Code, the said offence is being numbered as C.R. No. 80/2014. In the said complaint the respondent No.2 arrayed as many as 9 accused including the Husband being petitioner No.1, mother-in-law petitioner no.2, the brother of the husband petitioner no.3, the sister of the husband petitioner no.4, cousin of the husband petitioner no.5, the aunt of the husband petitioner no.6, and the uncle of the husband petitioner no.7 and 8 and the sister of the husband petitioner no.9.

3. Thereafter the matter is amicably settled by and between the parties on 13.05.2012 at Chalisgaon as per the Muslim rituals. The amount of Mehar amounting to Rs. 5000/- is duly received by the respondent complainant. Apart from the amount of Mehar the respondent complainant is also in receipt of amount of Rs. 3,85,000/- through two demand drafts, towards the permanent alimony. And in view of the above referred settlement divorce is also obtained by mutual consent. the complaint filed under the provisions of the Protection of Women from Domestic Violence Act being No. 676/2013 is also being

disposed off in view of the above referred settlement vide order dated 27.10.2014 passed by the JMFC Chalisgaon.

04. Therefore now in view of the settlement occurred by and between the parties, the Respondent No.2/being complainant does not wish to prosecute the said case any further. Therefore I have no objection, if this Hon'ble Court quashes the complaint being C.R. No. 80/2014 dated 15.03.2014 u/s 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code with the Chalisgaon Police."

4. Upon considering the averments made in the application, annexures thereto and the affidavit filed by Respondent No.2, we are of the opinion that, the application deserves to be allowed. The continuation of further proceedings based upon C.R. No. 80/2014 registered with Chalisgaon Police Station, Chalisgaon for the offences punishable under Sections 498-A, 406, 323, 504 read with 34 of Indian Penal Code will be abuse of process of law and ultimately wastage of time of Court since the complainant is not going to support the allegations. We are convinced that, the settlement between the parties is out of free will and without any coercion.

5. In that view of the matter and keeping in view the principles laid down in the case of **Gian Singh Vs. State of Punjab and another** reported in **2012(4) Bom.C.R.(Cri) 428**, we are inclined to allow the application and same is accordingly allowed in terms of prayer clause 'B' and stands disposed of.

6. Rule is made absolute accordingly.

(**A.M. BADAR, J.**)

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

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sga/-