

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 274 OF 2015

Hector Firdaus Kothavala .. Applicant

v/s.

The State of Maharashtra & Anr. ..Respondents

Mrs. T.F. Irani for the applicant
Mr. L.P. Kanal for the respondent no.2

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 16th APRIL, 2015.

P.C.

1. At the outset, learned Counsel for the applicant seeks leave to amend the prayer clause so as to give particulars of Criminal Case. Leave is granted. Necessary amendment shall be carried out forthwith.

2. Heard learned Counsel appearing for the respective parties. This application is filed under the provisions of Section 482 of the Cr.P.C. for quashing and setting aside the criminal proceedings of

Criminal Case No.151/PW/2014, pending on the file of Metropolitan Magistrate, Mazgaon Court, Mumbai. The said case arises out of registration of FIR No.79 of 2013, registered with Byculla Police Station, Mumbai at the instance of respondent no.2 for the offence punishable under Sections 8, 12, 14 and 17 of the Protection of Children from Sexual Offences Act, 2012. After completion of the investigation, investigating agency filed charge-sheet in the Court of learned Metropolitan Magistrate, Mazgaon Court being C.C. No.151/PW/2014.

3. The petitioner and respondent no.2 married on 15th December, 2002. They have two children out of the said wedlock. Matrimonial dispute between the parties gave rise to filing of the civil as well as criminal cases against each other. The subject matter of the present application is one of them.

4. Respondent no. 2 filed Parsi Suit No. 8 of 2013 for divorce. By order dated 18th February, 2015, the parties ultimately agreed to take divorce by mutual consent under Section 32(b) of

the Parsi Marriage and Divorce Act, 1936. Parsi Suit No.8 of 2013 accordingly disposed of in terms of the said consent terms and the marriage between the applicant and respondent no.2 stands dissolved. The consent terms filed between the parties in Parsi Suit No.8 of 2013 discloses that applicant has not pressed for the custody of the children. In paragraph 2(d) of the order dated 18th February, 2015, the respondent no.2 agreed to co-operate with the applicant for quashing, withdrawal or compromise of any other pending criminal or civil proceedings. In pursuance of the said understanding, the present application came to be filed for quashing the proceedings of the said C.R., by consent. Respondent no.2 has filed an affidavit dated 6th April, 2015. In paragraph 4 of the affidavit, she has given no objection to quash the proceedings of the said criminal case. Respondent no.2 is personally present in the Court. On specific query made by us, she submitted that she understood the contents of the same. Respondent no.2 states that she has no objection to quash the proceedings of the said criminal case.

5. We have also gone through the contents of the FIR as well as statements of the victim who are 6 and 8 years respectively. Both the statements of the children are stereo-type. Considering this fact and considering that there was a matrimonial dispute between the parties, we are of the opinion that quashing of the said criminal case would be in the interest of respondent no.2 as well as victim child.

6. We are of the view that the dispute is of personal nature and the ratio in the case of *Narinder Singh Vs. State of Punjab (2014) AIR SCW 2065* would squarely apply to the facts of the present case and as such there is no impediment in quashing the criminal complaint.

7. Accordingly, the Criminal Application is allowed in terms of prayer clause (a).

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)