

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2097 OF 2015

Bosco Renold Kenny and Another. ..Petitioners.
Versus
State of Maharashtra & Another. ..Respondents.

Mrs. Racheeta R. Dhuru for the Petitioner.
Mr. P. Y. Shankar for Respondent No. 2.
Mrs. S. V. Sonawane, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **June 8, 2015.**

P. C. :

1. Mr. P.Y.Shankar, Advocate states that he has instructions to appear in the matter on behalf of Respondent No. 2. He undertakes to file vakalatnama during the course of the day.
2. Heard. By this petition under Articles 226 and 227 of the Constitution of India read with the provisions of section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking to quash the proceedings of Sessions Case No. 117/PW/2014 pending on the file of Sessions Judge at Greater Mumbai.
3. At the instance of Respondent No.2, the mother of the deceased Cristina Kenny, R.A. Kidwai Marg Police Station, Mumbai registered CR No. 133 of 2013 against the Petitioners for the offence punishable under section 306 read with 34 of the Indian Penal Code, 1860. Subsequently, section 498A was added.

4. Petitioner No.1 and deceased Cristina were in love with each other. They got married on 18th October 2009. They were bestowed with a son on 8th October 2010. Petitioner No. 1 used to work on ship at Dubai. He would remain on duty for six months on ship and would get six months at home. During the absence of Petitioner No. 1, deceased Cristina was residing with her in-laws.

5. The FIR shows that deceased committed suicide by consuming poison. The material collected by the investigating officer shows that the deceased was demanding separate house and on this count there were altercations between herself and Petitioner No.1. The statement of deceased recorded on 30th April 2013 [Exhibit-A] also reveals that there was some altercation between herself and Petitioner No.1 and in a fit of rage she consumed poison. After completing the investigation, police filed charge-sheet and case is now pending before the Sessions Judge.

6. The learned Counsel appearing for the respective parties submitted that during the pendency of criminal proceedings, the parties amicably settled their differences by way of mutual settlement. Pursuant to the same, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No.2.

7. Respondent No.2-the original complainant has sworn an affidavit dated 2nd June 2015 wherein she has stated that her daughter was hyper-sensitive and short-tempered. It is also stated that the Petitioners or their family members never ill-treated her daughter. In paragraph 6, she has stated that she has no objection for quashing the

proceedings of the Sessions Case against the Petitioners.

8. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the criminal proceedings in question initiated by her against the the Petitioners.

9. In the light of above and considering the nature of allegations made in the FIR as well as statement of the deceased we are of the opinion that this is a fit case for quashing the proceedings of above Sessions Case. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

10. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the criminal proceedings in question pending against the Petitioners. Hence, petition is made absolute in terms of prayer clause (b).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]