

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 843 OF 2014

Anil Assomull.

..Applicant.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. S. B. Jaisinghani, Senior Advocate with Mr. A. Z. Mookhtiar, Dhaval Patil i/b K. Ashar & Co., for the Applicant.

Mr. R. S. Kohli for Respondent No.3.

Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **March 18, 2015.**

P. C. :

1. By this application, the Applicant has invoked the inherent jurisdiction of this Court under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of FIR No.242 of 2013 registered with Wanwadi Police Station against him for the offence punishable under sections 403, 406, 419, 420, 463, 464, 465, 467, 468, 471, 474 and 34 of the Indian Penal Code, 1860.

2. The Applicant and Respondent No.3 got married to each other in the year 1985. Differences of opinion arose between the couple, as a result of which Respondent No.3 filed a private complaint bearing No.765 of 2013 before the learned JMFC, Pune, seeking direction to the police for investigation under section 156(3) of the

Code. The Magistrate granted the said application, pursuant to which the above-said CR came to be registered against the Applicant.

3. Mr. Jaisinghani, the learned Senior Counsel appearing for the Applicant submitted that all disputes between the parties were referred for conciliation and Mr. Justice D.K.Deshmukh, former Judge of this Court was appointed as a Conciliator by the parties jointly. He submitted that on 19th March 2014, amicable settlement between the parties was brought about and deed of family settlement was executed by the Applicant and Respondent No.3, wherein Respondent No.3 undertook to withdraw all complaints against the Applicant, including the subject matter of present application. On 22nd May 2014 and 30th June 2014, Respondent No.3 herself has given letters to the Wanwadi Police Station pointing out that the Applicant and she has entered into Conciliation Terms before the Conciliator and settled their disputes. Respondent No. 3 has therefore requested the police not to proceed further and investigate the complaint filed by her and not to take any coercive action against the Applicant. The learned Senior Counsel appearing for the Applicant submitted that despite this settlement of disputes and intimation thereof by Respondent No.3 herself to the police, Wanwadi Police Station officers are harassing the Applicant in the subject FIR. Hence present application.

4. Mr. Kohli, the learned Counsel appearing for Respondent No.3 opposed the application. He denied that the disputes between the parties are settled.

5. Having heard the learned Counsel appearing for the respective parties and having gone through the relevant documents, we find merit in the application. Copy of the Deed of Settlement dated 19th March 2014 executed by the Applicant and Respondent No.3 is annexed at Exhibit-E to the petition. Recitals in the said deed show that Applicant No.1 and Respondent No.3 had jointly and individually agreed to appoint Mr. Justice D. K. Deshmukh [former Judge of this Court] as conciliator to settle the differences that had arisen between them. The deed further shows that the Applicant and Respondent No.3 have resolved their differences and disputes as per the terms mentioned in the Deed. This Deed of Settlement is signed by the Applicant, Respondent No.3 and by the jointly appointed conciliator – Mr. Justice D. K. Deshmukh, Former Judge of this Court. Under clause 9 of the said Deed of Settlement, Respondent No.3 and the members of her family had agreed to withdraw the criminal complaint against the Applicant within the period of one week from the date of Applicant complying with the terms of the Deed of Settlement.

6. Accordingly, Respondent No.3 wrote letters to the Wanwadi Police Station on 22nd May 2014 and 30th June 2014. Copy of the letters are placed on record at Exhibit-"F-colly". Both these letters refer to the settlement arrived at between the parties with the mediation of joint Conciliator Mr. Justice D. K. Deshmukh. In the letter dated 22nd May 2014, Respondent No.3 has stated that the Applicant is complying with the conciliation terms and requested the police not to adopt any coercive steps against him. By the letter dated 30th June 2014, Respondent No.3 has informed the police that disputes between herself and the Applicant have been resolved. She also stated that she has been residing with the Applicant and requested the police not to proceed further or to investigate the complaint filed by her against the Applicant.

7. The settlement deed and letters referred to above unequivocally show that parties have settled their disputes. Respondent No.3 has not disputed the execution or the genuineness of settlement deed. The Applicant has already complied with the terms of settlement. We, therefore, do not find any substance in the contention of the learned Counsel appearing for Respondent No.3 that the dispute has not been settled amicably.

8. The Apex Court in Ruchi Agarwal v. Amit Kumar Agarwal [2004(8) SC 525] and Mohd. Shamim vs. Nahid Bagum [(2005) 3 SCC 302] in a similar situation quashed the criminal proceedings. In the present case, Respondent No. 3 has entered into a settlement and has received benefit under the same without any contest. Under the circumstances, continuation of criminal proceedings would be an abuse of the process of the Court. Hence, in exercise of our power under section 482 of the Code of Criminal Procedure, 1973, we hereby allow application in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]