

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3535 OF 2015

Maniskumar Shitlaprasad Dubey and others	... Petitioners
Vs.	
Vinita Manishkumar Dubey and another	... Respondents

Mr. Sujit Pathak for Petitioners.
Mr. R. R. Bharadwaj for Respondent No.1.
Mrs. M. M. Deshmukh, APP for Respondent No.2-State.

**Coram : RANJIT MORE &
R. G. KETKAR, JJ.**

Date : 03rd SEPTEMBER, 2015.

PC:

Heard Mr. Pathak, learned Counsel for petitioners, Mr. Bharadwaj, learned Counsel for respondent No.1 and Mrs. Deshmukh, learned APP for respondent No.2-State .

2. This Petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 to quash and set aside the proceedings of Criminal Case No.331/PW/2012 pending on the file of the learned Metropolitan Magistrate , 29th Court at Dadar (Bhoiwada), Mumbai. The said case arises out of registration of F.I.R. bearing C.R.No.58 of 2011 with Bhoiwada Police Station, Mumbai at the instance of respondent No.1 for the offences punishable under Sections 498-A, 406 read with Section 34 of the Indian Penal Code, 1860. Petitioner No.1 and respondent No.2 got

married on 18.06.2006. Rest of the petitioners are the family members of petitioner No.1. The matrimonial dispute between the parties led to filing of civil as well as criminal cases, and the subject case is one of them.

3. Pending trial, parties have settled their disputes amicably and accordingly, consent terms came to be filed in Petition No.A1113 of 2011. Under the consent terms, parties agreed to convert the said Petition into mutual consent divorce under Section 13-B of the Hindu Marriage Act, 1955. Petitioner No.1 husband agreed to pay to the respondent No.1, an amount of Rs.6,00,000/- (Rupees Six Lakhs only) towards alimony and full and final settlement amount inclusive of arrears of maintenance. Accordingly, petitioner No.1 has paid an amount of Rs.6,00,000/- (Rupees Six Lakhs only) to the respondent No.1 by a Demand Draft dated 07.07.2015, copy of which is annexed to the Petition at page 49. Respondent No.1 acknowledges receipt of the said Demand Draft.

4. In pursuance of the said settlement, parties have approached this Court for quashing the proceedings of the subject criminal case by consent. Respondent No.1 has filed affidavit dated 03.09.2015. In paragraph 9, she has given no objection to quash the proceedings of the subject criminal case.

5. Respondent No.1 is personally present before the Court. On specific query, she confirmed the terms of settlement. She states that she has also received an amount of Rs.6,00,000/- (Rupees Six Lakhs only), and therefore, she has no objection to quash the proceedings of the subject criminal case.

6. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of *B.S.Joshi Vs. State of Haryana*, **AIR 2003 SC 1386**, we are of the view that quashing of the criminal proceedings would be in the interest of respondent No.2. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed.

7. At this stage, the learned Counsel for petitioners submits that as a condition precedent to anticipatory bail, petitioner No.2 deposited an amount of Rs.4,00,000/- (Rupees Four Lakhs) in this Court in pursuance of the order dated 21.03.2012 passed by the learned Single Judge of this Court in Criminal Anticipatory Bail Application No.910 of 2011. He submitted that this amount

be directed to be refunded to the petitioner No.2. Respondent No.1 has no objection if this amount is refunded to the petitioner No.2. That apart, the said order dated 21.03.2012 reveals that the disbursement of the said amount shall be subject to the final outcome of the litigation between the petitioners and respondent No.1.

8. In these circumstances, we are of the opinion that the petitioner No.2 is entitled to receive the said amount of Rs.4,00,000/- (Rupees Four Lakhs) along with the accrued interest thereon. Registry is directed to pay the said amount to the petitioner No.2 along with interest accrued thereon on his making proper application. The petition is, accordingly, made absolute in terms of prayer clauses (b) and (c) and is disposed of as such.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]

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