

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1469 OF 2015
(Shivaji Kisan Wavare and another Vs. The State of
Maharashtra and others)

Mr. Y.V. Kakade, Advocate for the petitioners
Mr. A.R. Kale, A.P.P. for the respondent-State
Mr. Amarjeet U. Patil, Advocate holding for
Mr. Mahesh K. Bhosale, Advocate for respondent No. 2

CORAM : M.T. JOSHI, J.
DATE : 11/02/2016

ORAL ORDER :

1. Rule. Rule made returnable forthwith. Heard finally with consent of learned counsel for the parties.

2. The present petitioners were convicted by the learned Judicial Magistrate First Class, Shevgaon for the offence punishable under section 498A read with section 34 of the Indian Penal Code, vide order dated 15th May, 2014, passed in Regular Criminal Case No. 30/2010. Aggrieved by the said conviction, the petitioners have filed Criminal Appeal No. 100/2014 in the Sessions Court at Ahmednagar.

3. During the pendency of the appeal before the

Sessions Court, the parties have arrived at a compromise. The court however dismissed the application. The photocopy of the decree passed in the Hindu Marriage Petition No. 204/2015 by the learned Civil Judge, Senior Division, Ahmednagar is placed on record, which is accepted on record and marked "X" for the purpose of identification. It would show that the parties have obtained the decree of divorce by mutual consent. Besides, the original complainant has also filed an affidavit on record, which would confirm the said settlement between the parties.

4. In view of above settlement between the parties and considering all the material on record, in my view, the conviction of the petitioners recorded by the learned Judicial Magistrate First Class will have to be set aside and the proceedings by way of criminal appeal pending before the Sessions Court, Ahmednagar will have to be disposed of. Hence, the following order :-

5. (I) The criminal writ petition is allowed.

(II) The judgement and order dated 15th May, 2014, passed by the learned Judicial Magistrate First Class, Shevgaon in Regular Criminal Case No. 30/2010, thereby

convicting and sentencing the present petitioners for the offence punishable under section 498A read with section 34 of the Indian Penal Code, is hereby set aside.

(III) Instead, the offence punishable under section 498A read with section 34 of the I.P. Code stands compounded. The fine amount deposited by the petitioners, if any be refunded to them.

(IV) In view of above order, the learned Sessions Judge, Ahmednagar to dispose of the Criminal Appeal No. 100/2014.

(V) Rule is made absolute on above terms.

[M.T. JOSHI]
JUDGE

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