

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL/CRIMINAL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.15 OF 2013
ALONG WITH
CRIMINAL APPLICATION NO.794 OF 2016

FCA NO.15 OF 2013

Mrs. Kavita Mangesh Kharatkar. .. Appellant
(Org. Respondent)

Vs

Mr. Mangesh Buddhaji Kharatkar. .. Respondent
(Org.Applicant)

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Shri Sidheshwar N. Biradar for the Appellant/Applicant.
Shri Ranvir Shekhawant and Shri Jagdish Chaudhary for the
Respondent.

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CR.APPLICATION NO.794 OF 2016

Mr. Mangesh Budhaji Kharatkar & Others. .. Applicants

Vs

The State of Maharashtra and Another. .. Respondents

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Shri Ranvir Shekhawant and Shri Jagdish Chaudhary for the Applicants.
Dr.F.R.Shaikh, APP for the Respondent No.1.
Shri Sidheshwar N. Biradar for the Respondent No.2.

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CORAM : A.S. OKA & A.A. SAYED, JJ
DATED : 15TH JULY 2016

PC.

1. We issue Rule in Criminal Application No.794 of 2016. The
learned APP waives service for the first Respondent and the learned
counsel appearing for second Respondent waives service.

2. Family Court Appeal No.15 of 2013 has been preferred by the wife for challenging the judgment and decree dated 13th December 2012 passed by the learned Principal Judge of the Family Court at Thane by which a Petition filed by the Respondent husband for a decree of divorce has been decreed. A counter claim filed by the wife was dismissed.

3. In the Family Court Appeal, consent terms were filed by the husband and wife. On the last date i.e. 4th May 2016, the consent terms have been taken on record and marked "X1" for identification by an order dated 4th May 2016 which order records that both the husband and wife admitted the correctness of the contents of the consent terms. The Appeal was kept pending as other compliances were to be made by the parties.

4. Criminal Application No.794 of 2016 has been filed by the first Applicant husband and the first Applicant's mother as well as sister. The prayer is for quashing the First Information Report registered for the offences punishable under Section 498(A) and 406 of the Indian Penal Code registered at the instance of the second Respondent wife in the said Application.

5. The consent terms filed in the Appeal contain a clause to the effect that the wife will not prosecute the criminal proceedings.

6. The learned counsel appearing for the husband and the wife state that all the terms and conditions incorporated in the consent terms marked "X1" for identification have been complied with.

7. Perusal of the FIR subject matter of Criminal Application No.794 of 2016 shows that the matrimonial dispute led to the registration thereof. Now there is a complete settlement of the matrimonial dispute and, therefore, continuation of criminal proceedings will cause undue hardship to the husband and wife both. Hence, a case is made out for quashing the FIR in exercise of powers under Section 482 of the Code of Criminal Procedure, 1973.

8. Hence, we pass the following order:

ORDER :

- (a) Family Court Appeal No.15 of 2013 is disposed of in terms of the consent terms dated 4th May 2016 taken out on record and marked "X1" for identification;

- (b) The Appellant wife will be entitled to withdraw a sum of Rs.4,75,000/- deposited by the husband in this Court;
- (c) Statement made in the consent terms are accepted;
- (d) Rule issued in Criminal Application No.794 of 2016 is made absolute in terms of prayer clause (a) which reads thus:

“(a) That after examining the legality, proprietary and/or validity of the allegations, registration of FIR No.I – 326 of 2012 with Respondent No.1 under Section 498-A and 406 of Indian Penal Code be quashed and set aside.”
- (e) Pending Civil Applications in the Family Court Appeal do not survive and the same are disposed of;
- (f) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)