

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.267 OF 2016

Tarun Prakash Gaikwad and Others.	..	Applicants
Vs		
The State of Maharashtra and Another.	..	Respondents
—		
Ms. Deepika M. Bafna for the Applicant.		
Mrs. M.H. Mhatre, APP for the Respondent No.1.		
Shri Rahul P. Walvekar for the Respondent No.2.		

CORAM : A.S. OKA & P.D. NAIK, JJ
DATED : 21ST APRIL 2016

ORAL JUDGMENT (PER P.D. NAIK, J)

1. Rule. Respondents waive service. Rule is made returnable forthwith.
2. This is an Application made by the Applicants under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.) seeking quashing of the criminal proceedings in C.C. No.416 of 2013. The said proceedings arise out of the First Information Report (FIR) lodged at the instance of the second Respondent for the offences punishable under Sections 498-A, 406, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. In the FIR registered by the first Respondent, it has been alleged that the marriage was solemnized between the second Respondent and the first Applicant on 25th February 2011. It is further alleged that after the marriage, there was harassment of the second Respondent at the instance of the Applicants. On account of the said harassment, FIR bearing No.48 of 2012 has been registered with the Nalasopara Police Station on 24th January 2012. On completing the investigation, chargesheet has been filed before the Competent Court and the proceedings were numbered as C.C. No.416 of 2013. It is pointed out by the learned Advocate for the Applicants as well as the learned Advocate for the second Respondent that the parties have settled the dispute amicably. It is also pointed out that the proceedings were initiated before the Family Court vide Petition No.A-3194 of 2013. In the said proceedings, the consent terms for divorce have been filed. The first Applicant and the second Respondent have agreed for taking divorce by mutual consent. In Clause 5 of the said consent terms, it has been mentioned that in view of the settlement, the Petitioner therein shall agree to withdraw her criminal complaint filed under Section 498-A of the Cr. P.C. at Nalla Sopara Police Station. It is also mentioned that the Petitioner (second Respondent herein) will be allowed to withdraw the alimony amount after she withdraws the abovementioned criminal complaint as well as after passing of the decree of divorce.

4. The second Respondent has filed an affidavit before this Court in the present Application. In Paragraph 2 of the said affidavit, it has been clearly stated that she has no objection for quashing criminal proceedings in C.C. No.416 of 2013 arising out of CR No.48 of 2012 registered under Sections 498-A, 406, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

5. The first Applicant has also tendered an affidavit dated 21st April 2016. In the said affidavit, it has been stated that he has no objection for withdrawal of the amount by the second Respondent deposited by him before the Family Court to the tune of Rs.1,05,000/- on the basis of the order of quashing of the abovementioned proceedings by this Court.

6. We have gone through the First Information Report, consent terms annexed to the Application, affidavits tendered by the second Respondent as well as the first Applicant before this Court. It is clear that the dispute has arisen from the matrimonial discord between the parties. The said dispute is of a private nature. In several decisions of the Apex Court and more particularly in a recent decision of the Apex Court in the case of *Gian Singh v. State Bank of Punjab*¹, it has been observed that in respect to the disputes which are purely of private nature, the Court can exercise the powers under Section 482 of the

1 (2012) 10 SCC 303

Cr.P.C. and quash such proceedings, if there is an amicable settlement between the parties.

7. Hence, we are inclined to allow this Application. Accordingly, Rule is made absolute in terms of prayer clause (a) which reads thus:

“(a) That this Hon'ble Court be pleased to quash the proceedings u/s. 482 of the Code of Criminal Procedure by calling the records and proceedings of the C.C. No.416 of 2013 pending before the Hon'ble J.M.F.C. Court, Vasai and after going through the validity and legality of the same, quash and set aside the criminal proceedings.”

8. The Family Court is directed to permit withdrawal of the amount of Rs.1,05,000/- by the second Respondent which amount has been deposited by the first Applicant in the Family Court in the Petition No.A-3194 of 2013 on production of an authenticated copy of this order.

9. All concerned to act upon an authenticated copy of this order.