

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 283 OF 2015

Nihaal Wahab Bagadia and ors. ...Applicants
Versus
The State of Maharashtra and ors. ..Respondents

Mr. A. H. Ponda, advocate for the applicants.
Mrs. U. V. Kejriwal, APP for the State.
Mr. Rizwan Merchant i/b. Rizwan Merchant and Associates, advocates for respondent Nos. 2 and 3.

**CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.**

DATE : 25th FEBRUARY, 2016.

P. C. :

Mr. Ponda, learned counsel for the applicants seeks leave to delete the name of applicant No.1 with liberty to file a separate application on his behalf. Leave with liberty as prayed for, is granted. Necessary amendment be carried out forthwith.

2. Heard learned counsel and learned APP appearing for the respective parties.

3. The application is filed for quashing the proceedings of the Sessions Case No.202 of 2015 pending on the file before the Court of

Sessions for Greater Mumbai. The said case arises out of registration of FIR bearing C.R. No.255 of 2014 with Mahim Police Station, at the instance of respondent No.2 for the offences punishable under Sections 328, 377, 417, 418, 494, 495, 292, 498A, 406 and 34 of the Indian Penal Code, 1860 and Sections 67, 67(A) of the Information Technology Act, 2000.

4. Respondent No.3 was married to the one Nihaal Wahab Bagadia, the son of applicant No.2. Marital discord between the parties gave rise to the subject criminal. The parties, however, settled their dispute amicably by entering into memorandum of understanding and talaq was given to respondent No.3 by Nihaal Wahab Bagadi – son the applicant No.2 by executing Talaqnama. In terms of clause 13 of the memorandum of understanding, respondent Nos. 2 and 3 have agreed to withdraw the subject FIR. A copy of the memorandum of understanding is annexed at “Exhibit- A”, page 11. The same is signed by the applicants and respondent Nos. 2 and 3.

5. Mr. Merchant, learned counsel for respondent Nos. 2 and 3, having taken instructions from his clients, makes a statement that they have no objection if the proceedings of the subject criminal case as against the applicants are quashed and set-aside. We have gone

through the charge-sheet. So far as the offences under Sections 377 and 328 of the Indian Penal Code, 1860 are concerned, they are no allegations against the applicants.

6. In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the cases of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]** and **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we find that 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 and set-aside. The criminal application is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

7. In view of the disposal of the criminal application, criminal application No. 124 of 2016 will not survive for consideration and the same is also disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]