

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1336 OF 2015

Zahid Sallim Shaikh and Others. ..Applicants.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Farhana Shah for the Applicants.
Mr. Ramiz Shaikh i/b B. A. Mulla for Respondent No. 2.
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.
Date : **January 8, 2016.**

P. C. :

1. At the outset, learned Counsel appearing for the Applicants seeks leave to amend the prayer clause so as to incorporate the details of the criminal proceedings. Leave granted. Necessary amendment be carried out forthwith.

2. Heard. By this application under section 482, the Applicants are seeking to quash the proceedings of criminal case, being CC No.2581/PW/2015 pending on the file of learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai. The said proceeding is the outcome of FIR registered with Sakinaka Police Station at the instance of Respondent No.2 herein, being FIR No. 247 of 2014. In the said case, the Applicants are prosecuted for the

offence punishable under sections 323, 504, 506, 354, 509, 498A and 377 read with 34 of the Indian Penal Code, 1860.

3. On 7th June 2013, Applicant No.1 got married with Respondent No.2 as per the Muslim rites and customs. Rest of the Applicants are family members of Applicant No.1. Marital discord between the parties gave rise to the filing of subject FIR.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above criminal proceedings, by consent of Respondent No.2.

5. Respondent No.2 has filed an affidavit dated 16th December 2015 wherein she has stated that she has taken Khulanama from Applicant No.1. Respondent No.2, who is personally present in the Court, however today states that said statement is inadvertently made in the affidavit and as a matter of fact she has applied before

the Kazi for Khula and Applicant No.1 has given no objection for grant of Khula. In the affidavit she has further stated that since her grievances have come to an end, she does not intend to pursue her complaint against the Applicants in view of the settlement. She has also made a statement that she has no objection to quash the criminal proceedings against the Applicants arising out of her complaining, being FIR No. 247 of 2014.

6. Respondent No.2 as well as her mother are personally present before the Court. On specific query made by us, she submitted that she has no objection for quashing the criminal proceedings in question initiated by her against the Applicants, subject to Applicant No.1 giving no objection for Khula. All the Applicants are present in the Court. They through their advocate make a statement that they have already appeared before Kazi and they have no objection for Khula and also they have no objection for Respondent No.2 getting re-married after Khula.

7. Since parties have decided to settle amicably and since Applicant No.1 and Respondent No.2 want to get remarried, we are of the opinion that quashing of the criminal proceedings would be in the

interests of Respondent No.2 and continuation of the proceedings would serve no purpose.

8. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the criminal proceedings. Accordingly, application is allowed in terms of prayer clause (A). However, this order will take effect only after placing of copy of Khulanam on the record of this file.

9. Proceedings are quashed by the instant order in the peculiar facts and circumstances of the case and this order shall not be treated as precedent in any other matter.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]