

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.529 OF 2015

[Jainendra s/o Shri Om Prakash Dhawan .vs. State of Maharashtra and another]

with

CRIMINAL WRIT PETITION NO.530 OF 2015

[Om Prakash s/o Late Shri Parma Ram Dhawan and one .vs. State of Maharashtra and another]

with

CRIMINAL WRIT PETITION NO.537 OF 2015

[Arvind Kumar s/o Krishan Swaroop and one .vs. State of Maharashtra and another]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.M. Sudame, Advocate for the Petitioners,
Shri D.P. Thakre, Additional Government Pleader for the Respondent no.1,
Mrs. Mugdha R. Chandurkar, Advocate for the Respondent no.2.

CORAM : B.R. GAVAI AND
P.N. DESHMUKH, JJ.

DATED : JANUARY 28, 2016.

Heard Shri Sudame, learned counsel for the petitioners, Shri Thakare, learned Additional Government Pleader for the respondent no.1 and Mrs. Chandurkar, learned counsel for the respondent no.2.

2. The petitioners have approached this Court praying for quashing and setting aside the proceedings pertaining to Charge-sheet No.6/2015 filed in the Court of Judicial Magistrate, First Class, Court No.7, Nagpur on the basis of First Information Report bearing No.225/2014 dated 23.8.2014 under Section 498-A read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act.

3. The petitioner in Criminal Writ Petition No.529/2015 is husband of respondent no.2, whereas the

petitioners in Criminal Writ Petition No.530/2015 are the parents of the husband, whereas the petitioners in Criminal Writ Petition No.537/2015 are the maternal uncle and maternal aunt of the husband. For the sake of convenience, the parties would be hereinafter referred to as the husband and the wife, respectively.

4. The husband and wife were married on 20.11.2013 at District-Karauli (Rajasthan). Both the husband and wife are employed in State Bank of India and Indian Overseas Bank, respectively, as Probationary Officers. It appears that, soon after the marriage, the relations between husband and wife became severed. The differences in the marital life of the parties were so extreme that led to filing of criminal proceedings at the instance of the wife against the husband and his relatives. One of such instance was the First Information Report bearing No.225/2014 filed by the wife against the petitioner and his relatives.

5. When the petitions were listed before us, taking into consideration the fact that the dispute between the parties arose on account of matrimonial dispute and further that the parties were young and that the matrimonial dispute had started immediately after the marriage, the dispute between them was referred to the Mediator for mediation. However, the proceeding before the learned Mediator failed. Subsequently, again the counsel for the parties tried to mediate between the parties. Fortunately, both the counsel for the husband and wife have been successful in resolving the dispute between the husband and

the wife.

6. The parties have filed the consent-terms. The same are taken on record and marked as 'X' for identification.

7. It has been agreed between the husband and the wife that all the disputes between them should be given an end. It has also been agreed that amount of Rs.8,75,000/- will be paid by the husband to the wife towards her all dues and hereinafter she will not have any claim of any nature against the husband. It has been further agreed that the parties will give an end to all criminal proceedings between them. The parties have also agreed to withdraw all allegations made by them against each other in all the proceedings. As agreed earlier, the petitioner has handed over Demand Draft bearing No.106931 for Rs.8,75,000/- dated 28.01.2016, in our presence, to the wife. The wife has also passed a receipt of the said Demand Draft to husband.

8. It has further been agreed that the proceeding before the Family Court No.2, Nagpur filed by the wife bearing No.300284/2015 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 to be converted into the same for the divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955. Parties have also requested this Court jointly to pass a decree of dissolution of marriage by mutual consent.

9. From the perusal of the material placed on record, it is clear that the relationship between the husband

and wife started having eruption immediately after the marriage. Immediately after the marriage, the relationship became so severely strained that resulted into filing various proceedings by each of them, against the other one, making all sort of allegations. The husband is aged 29 years, whereas the wife is aged 28 years.

10. We find that the relationship between the husband and the wife is irretrievably broken and no purpose would be served by thrusting the relationship upon them. We are of the considered view that it is in the interest of justice that the husband and the wife be permitted to give an end to their relationship, so that both of them can start their life afresh.

11. In that view of the matter, we pass the following order :

(i) The proceedings pertaining to Charge-sheet No.6/2015 filed in the Court of Judicial Magistrate, First Class, Court No.7, Nagpur on the basis of First Information Report bearing No.225/2014 dated 23.8.2014 under Sections 498-A read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act, shall stand quashed and set aside.

(ii) The Miscellaneous Criminal Case No.302716/2015 filed under the Protection of Women from Domestic Violence Act, 2005, which is pending before the Court of 13th Joint Civil

Judge, Junior Division (Special Judge), Nagpur shall stand disposed of, as withdrawn.

(iii) All allegations made by the husband and wife against each other shall stand withdrawn and are expunged from the pleadings of the respective proceedings.

(iv) The proceedings pending before the learned Family Court No.2, Nagpur bearing No.300284/2015 being petition for divorce under Sections 13(1)(i-a) of the Hindu Marriage Act, 1955 are permitted to be converted into the proceedings for grant of mutual divorce under Section 13-B of the Hindu Marriage Act, 1955.

(v) The proceedings pending before the Family Court No.2, Nagpur bearing No.300042/2014 under Section 27 of the Hindu Marriage Act, 1955 for return of articles stand disposed of as withdrawn.

(vi) The Registrar of the Family Court is directed to do the needful for conversion.

(vii) The petition for divorce by mutual consent, which has been permitted to be converted, is decreed. It is decreed that the marriage between Smt. Anita Jainendra Dhawan and Jainendra Omprakash Dhawan, solemnized on 20.11.2013, is dissolved on the terms and conditions, as specified in the consent terms, which are already taken on record and marked as 'X' for

identification.

(viii) The Registrar of the Family Court is directed to draw a decree in accordance with the aforesaid terms. All the undertakings given in the consent terms by the husband and wife are treated as an undertakings to this Court and accepted.

12. Criminal Writ Petition Nos.529/2015, 530/2015 and 537/2015 stand disposed of accordingly.

JUDGE

JUDGE

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