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APL-667-2017 (SR. 13)

Friday, 29.9.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 667 OF 2017

Prashant Ramkrishna Bachhav
and Ors.

....Applicants

V/s.

The State of Maharashtra
and anr.

....Respondents

* * * * *

Ms. Mallika A. Ingale, Advocate for the Applicants.

Mrs. M.H. Mhatre, APP for the respondent no.1, State.

Mrs. Vaishali Tikle, Advocate for respondent no.2.

CORAM :-

R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :-

29TH SEPTEMBER, 2017.

P.C. :-

1. By the above Criminal Application, the applicants seek quashing of the proceedings being C.C. No. 1508/PW/2016 pending on the file of the Learned Metropolitan Magistrate, 17th Court, Borivali arising out of C.R. No.98 of 2016 registered with Santa Nagar Police Station, Kandivali (East) for the offences punishable under Sections 498(A), 504, 506, 323 read with Section

34 of the Indian Penal Code. The parties were also before the Family Court in proceedings for judicial separation filed by the husband in the Family Court, Mumbai and for restoration of conjugal rights filed by the wife in Nasik. The FIR in question has arisen out of the matrimonial disputes between the parties. It is not necessary to dilate further on facts. The respondent no.2 had filed Misc. Civil Application No.98 of 2016 under Section 24 of the Civil Procedure Code for transfer of the Marriage Petition filed by the husband to the Family Court, Nasik. In the course of the said proceedings, the parties arrived at an amicable settlement which was reduced into writing by way of consent terms for settlement and divorce by mutual consent. The said consent terms are in some detail. However, insofar as, the present petition is concerned, paras, 10, 11 and 13 of the said consent terms are material and are reproduced hereunder :-

“10. The final Order in quashing petitions (by consent) is to be obtained by both the parties on the same date.

11. After the final quashing order of the said

Criminal Case, the Respondent shall also withdraw both the Civil and Criminal defamation cases filed by him. Both the parties undertake to file the certified copies of quashing/withdrawal/disposal of their respective cases before the Family Court Bandra before the date of decree of divorce.

13. It is further agreed between the parties that they shall not file any civil or criminal cases or complaints against each other or their family members in respect of any of the events pertaining to their matrimonial disputes.”

2. Respondent no.2 has also filed her Affidavit dated 13th September, 2017 and sworn in this Court. Para-8 of the said Affidavit is material and is reproduced hereunder :-

“8. Hence in view of the aforesaid facts I have no objection if proceeding viz C.C. No. 1508/PW/2016 pending before the Court of Ld. Magistrate, 17th Court, arising out of FIR No.98 of 2016 registered with Samata Nagar Police Station, for charge U/S. 498A, 504, 506, 323, 34 of the Indian Penal Code is quashed.”

3. Respondent no.2 is personally present in Court. She is identified by the Learned Counsel, Ms. Vaishali Tikle appearing for her. She is also identified by her Aadhar Card No. 8487 6950 5918 which is in her maiden

name, Manjiri Jadhav. When put in the box and queried, she accepts the fact that, consent terms have been arrived at in the Miscellaneous Civil Application and that the Affidavit tendered by the Learned Counsel, Mrs. Tikle is hers and that she accepts the contents of the said Affidavit and that she has signed the said Affidavit out of her own free will and volition. Applicant no.1 Prashant i.e. the husband is also present in the Court and is identified by the Learned Counsel appearing for the applicants. He is also identified by his Aadhar Card No. 4148 3716 9275. When put in the box and queried, he accepts the fact of the consent terms being arrived at between the parties before the Learned Single Judge in the Miscellaneous Civil Application.

4. Having regard to the consent terms filed between the parties, as also, the Affidavit filed by the respondent no.2 and the statements made by the petitioner no.1 and the respondent no.2 in the witness box, the same unequivocally point out, that the parties have settled their dispute and they do not desire to

proceed with the proceedings.

5. In the light of the judgments of the Apex Court in the case of **Gian Singh v/s. State of Punjab, reported in (2012) 10 SCC 303** and **Narinder Singh V/s. State of Punjab, reported in (2014) 6 SCC 466**, no useful purpose would be served by keeping the proceedings pending. Hence, there is now no impediment in quashing the proceedings, the above application is accordingly allowed and made absolute in terms of prayer clause (a). The application stands disposed of.

6. The applicant no.1 to pay cost of Rs.10,000/- (Rs. Ten Thousand only) to be deposited with the Maharashtra Legal Aid Fund within a period of 6 weeks from date. Receipt to be obtained and to be filed in the Registry.

7. The Learned Counsel, Mrs. Tikle undertakes to file Vakalatnama on behalf of respondent no.2. The Undertaking is accepted.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)