

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.824 OF 2016

Abbas Bahadur Dhanani and Others. .. Applicants
Vs
The State of Maharashtra and Another. .. Respondents

—
Mrs. Mallika A. Ingale for the Applicants.
Mrs.S.V.Sonawane, APP for the Respondent No.1.
Shri Vishal Gupta for the Respondent No.2.
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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 1ST FEBRUARY 2017

P.C.

1. Rule. The learned APP waives service for the first Respondent. The Advocate for the second Respondent waives service. Forthwith taken up for final disposal.

2. The second Respondent is the first informant at whose instance, the impugned First Information Report (FIR) was registered alleging commission of offences punishable under Sections 498A, 406, 323, 504, 506 read with 34 of the Indian Penal Code. The first Applicant and the second Respondent are the husband and wife. The prayer for quashing is made on the basis of the settlement between the parties. The parties are relying upon the consent terms filed on 16th December 2016. A complaint filed under the provisions of the Protection of Women from Domestic Violence Act, 2005 was pending

before the learned Additional Chief Metropolitan Magistrate, 69th Court at Mazgaon, On 22nd December 2016, the learned Metropolitan Magistrate in presence of the first Applicant and the second Respondent read and recorded the consent terms by noting that both of them admit the contents of the consent terms.

3. The second Respondent has today tendered an affidavit. She has stated that she has accepted the Talaq given by the first Applicant on 19th October 2015 and she acknowledged the receipt of Iddat amount as well as Meher. She has stated that she will approach the Family Court for a declaratory decree validating the divorce and custody of the child. We accept the statements made in the affidavit.

4. We have perused the consent terms which record that on 19th October 2015, the first Applicant pronounced the Talaq by sending Talaqnama through courier to the second Respondent. Perusal of the consent terms shows that all the disputes between the parties have been settled. Yesterday, when this Application was called out, the learned counsel appearing for the Applicants has handed over to the learned counsel appearing for the second Respondent a Pay Order in the sum of Rs.8,00,000/- (Rupees Eight Lakhs) in terms of Clause 5 of the consent terms. The learned counsel appearing for the second Respondent has accepted the same on behalf of the second Respondent.

5. In view of the settlement of the matrimonial dispute, now continuation of the criminal proceedings would serve no purpose. The matrimonial dispute was the root cause for lodging the FIR. After settlement of the matrimonial dispute, continuation of the criminal proceedings will cause undue hardship both to the first Applicant and the second Respondent.

6. Therefore, in view of the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹, a case is made out for quashing the criminal proceedings.

7. Accordingly, we dispose of the Application by passing the following order.

ORDER :

(a) Rule is made absolute in terms of prayer clause (i), which read thus;

“(i) This Hon'ble Court be pleased to quash the FIR No.125 of 2016 registered with the Nagpada Police Station for alleged offence u/s 498(a), 406, 323, 504, 506 IPC, against the Applicants.”

(b) All concerned to act upon an authenticated copy of this order.

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)