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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.856 OF 2015

Himmat Manohe Bhoi ...Applicant
vs.
Nirmala Tarshees Baxla & Anr. ...Respondents

Ms Nazneen Adil Khatri for the applicant
Mr.A.R.Shaikh i/b Raeesuddin for the respondent No.1
Mr.N.B.Patil, APP for respondent No.2

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : MARCH 16, 2017

P.C.:

1 Rule. The learned APP waives service for the State. The learned counsel for the first informant waives service. Forthwith taken up for final hearing.

2 Prayer in this application under section 482 of the Code of Criminal Procedure, 1973 (for short 'CrPC') is for quashing the FIR registered at the instance of the second respondent for the offence punishable under sections 376, 471 and 506 of the Indian Penal Code. The prayer for quashing is sought on the ground that the marriage between the applicant and the first informant has been solemnised on 16th July 2015 and the same has been registered on 21st July 2015 in the office of the Registrar of Marriage, Bandra (West), Mumbai.

3 On the earlier date, in the Chamber, we had

talked to the applicant and the first informant only with a view to ascertain genuineness of the claim regarding their marriage. Certain discrepancies were noted in the stand taken by the applicant and the first informant. In terms of the order passed on 1st March 2017, after carrying out necessary verification, the Senior Inspector of Police, Bhoiwada Police Station submitted a report dated 16th March 2017. The report records that he has obtained copies of Memorandum of Marriage along with accompanying documents. There is an affidavit of a Priest recording that the first informant is converted into Hindu Religion. There is an affidavit of Priest who solemnised the marriage between the applicant and the second respondent. .

4 Today, the learned counsel for the applicant tendered on record office order dated 11th March 2017 issued by the office of the Commandant, 37th Bn Sashastra Seema Bal, Mangaldai, District Darrang (Assam) 784125 which is taken on record and marked 'Z-1' for identification. The applicant is an employee of Sashastra Seema Bal. The office order records that the name of the first informant is recorded as the wife of the applicant in the service book of the applicant. The learned counsel for the applicant on instructions states that the applicant will take the first respondent to the place of his posting. We accept the said statement. This order dated 11th March 2017 shows that the applicant has ensured that the name of the first applicant is shown in his service record as his wife. The police

have found that there is a registration of marriage solemnised between the parties on 16th July 2015 and the marriage certificate is found to be genuine.

5 When the FIR was registered, the age of the first informant was 24 years. The allegations made by her show that the relationship maintained by her with the applicant was consensual. Therefore, the offence under section 376 of the Indian Penal Code is not made out. Now, there is a solemnization of marriage between the applicant and the first informant. Therefore, continuation of proceedings will serve no purpose. This is a fit case to exercise power under section 482 of the CrPC.

6 Hence, we pass the following order:

(i) Rule is made absolute in terms of prayer clause (a) which reads thus:

“(a) This Hon'ble Court may be pleased to quash and set aside the FIR/Complaint lodged by the Respondent No.1/Original complainant, with the Bhoiwada Police Station vide C.R.No.384/14 under section 417, 376 and 506 of IPC on such terms and conditions as this Hon'ble Court may deem fit and proper.”

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

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)