

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1149 OF 2016

Shri Shantling Chandrakant Patil & Ors.Applicants
V/s.
The State of Maharashtra & Anr.Respondents

Mr. A.B.Tajane, Advocate for Applicants.
Mr. V.B.Konde-Deshmukh, APP for the Respondent-State.
Mr. M.A.Patil, Advocate for Respondent No.2.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 1ST SEPTEMBER, 2017.

PC. :-

At the outset, the learned counsel for the Applicants seeks leave to amend so as to correct prayer clause (a) so far as the number of C.R. is concerned. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the C.R.NO.253 of 2013 (Wrongly mentioned as C.R.No.50 of 2014) in prayer clause (a) registered with the Vijapur Naka Police Station, Solapur City for the offences punishable under

Sections 363, 498A read with Section 34 of the IPC. The Applicants also seeks quashing of the proceeding being R.C.C.No.511 of 2014 arising therefrom pending before the 5th Joint CJJD and JMFC, Solapur. Registration of the said FIR seems to be on account of the matrimonial dispute between the Applicant No.1 and Respondent No.2 on account of which the in-laws of the Respondent No.2, i.e., the other Applicants have also been roped in. The parties were before the Family Court on account of Marriage Petition filed by the Respondent No.2/Husband being M.PNo.2867 of 2013 for divorce under Section 13(1)(1-B) of the Hindu Marriage Act, 1955. In the said Marriage Petition, the parties filed a joint memo (Consent Terms). In the context of the reliefs sought in the above Criminal Application, Clauses 2(ii) and 5 of the said Joint Memo are relevant and are re-produced hereunder:

“2.ii) The respondent/wife submits that it is not possible for her to continue her marital relationship with the Petitioner as there is no compatibility between herself and her husband and therefore the respondent has decided to seek decree of divorce. Since her husband/petitioner has filed the above Petition for divorce and the respondent also requires the same, the respondent/wife has no objections to allow the above Petition and grant decree of divorce by dissolving the marriage of the Petitioner with the respondent which

was celebrated on 19.07.2009 at Susheel Rashika Sabha Gruha, Morarjipet, Solapur.

5. The respondent/wife has filed the complaint under section 12 of the Protection of Women from Domestic Violence Act, 2005 and the same is pending on the file of the J.M.F.C., Solapur in Criminal Miscellaneous Application No.121/2004 and in view of the settlement between the parties, the respondent undertakes to withdraw the same. Similarly, the respondent has lodged the complaint against the Petitioner herein and others alleging offence punishable under Sections 498-A, 363 read with Section 345 of IPC and in view of the settlement between the parties, the respondent-wife undertakes to withdraw the said complaint. In the event if the Hon'ble Court were to refuse to accept the Memo, the respondent will co-operate with the Petitioner for quashing of the proceedings.”

3 In terms of the said Joint Memo, parties thereafter have obtained a decree of divorce in-as-much as Marriage Petition filed by the Applicant No.1 was allowed and resultantly, the marriage between the Applicant No.1 and the Respondent No.2 came to be dissolved. Hence, the Joint Memo as also the decree disclose that the parties have amicably resolved their disputes which is reflected by the fact that the Applicant No.1 and the Respondent No.2 have got their marriage dissolved. The Joint Memo as well as the order

passed by the learned Principal Judge, Family Court, Bangalore is annexed to the above Application. Having regard to the said Joint Memo and the decree passed by the learned Principal Judge of the Family Court, Bangalore dated 18.11.2015 as also having regard to the judgment of the Apex Court in in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. The above Criminal Application is allowed and made absolute in terms of prayer clause (a) and disposed of as such.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)