

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1065 OF 2014

Smt. Haqiqa Bano Rizvi & Ors.] ... Applicants

Versus

The State of Maharashtra & Anr.] ... Respondents

Mr. Akhilesh Dubey i/b Mr. R. R. Sharma for Applicants.

Mr. K. V. Saste, APP for State.

Ms. Kokila Kalra for Respondent No.2.

**CORAM :- RANJIT MORE &
SARANG V. KOTWAL, JJ.**

DATE :- 23 JUNE, 2017

P. C. :-

1. At the outset, the learned Advocate for the applicants seeks leave to amend the prayer clauses (a) and (b). Leave granted. Necessary amendment shall be carried out forthwith.

2. Heard the learned Advocate for the applicants, the learned Advocate for the respondent no.2 and the learned APP.

3. The petition is filed for quashing and setting aside the proceedings in case bearing RCC No.674 of 2013 pending before the Metropolitan Magistrate, 51st Court, Kurla, Mumbai. The said case

arises out of registration of F.I.R. bearing C.R.No.115 of 2013 with Kurla Police Station, Mumbai, at the instance of the respondent no.2, for the offences punishable under Sections 498A and 406 r/w 34 of the IPC.

4. The applicant no.4 and the respondent no.2 were husband and wife. The rest of the applicants i.e. applicant nos.1 to 3 are the relations of the applicant no.4. The matrimonial discord between the parties gave rise to filing of civil as well as criminal cases. The subject criminal case is one of them.

5. Pending trial of the subject criminal case, with the intervention of friends and relatives, the parties settled their dispute amicably and have approached this Court for quashing and setting aside the subject criminal case, with consent.

6. During the pendency of this petition, the applicant no.4 and the respondent no.2 entered into Consent Terms on 16 March 2017. Under these Consent terms, the applicant no.4 agreed to pay to the respondent no.2 an amount of Rs.70 Lakhs as full and final amount towards her and minor daughter Anamta's permanent alimony. The parties agreed that the permanent custody of minor daughter Anamta shall remain with the respondent no.2 – wife. The parties also agreed to dissolve their marriage. The respondent no.2 agreed to give consent for quashing the subject criminal proceedings after the receipt of amount of Rs.70 Lakhs referred above.

7. The amount of Rs.70 Lakhs under the Consent Terms was be paid to the respondent no.2 by the applicant no.4 in the following manner :-

- i) The first installment of Rs.10 Lakhs shall be paid within 20 days from signing of the Consent Terms i.e. by 6th April 2017.
- ii) The second installment of Rs.20 Lakhs shall be paid by 10th June 2017.
- iii) The third installment of Rs.20 Lakhs shall be paid by 15th September 2017.
- iv) The fourth installment of Rs.20 Lakhs shall be paid by 3rd November 2017.
- v) All the payments shall be in the form of Demand Draft and shall be sent to the respondent no.2's Advocate's office address – S-45, Jai Jawan Market, Sector-17, Vashi, Navi Mumbai – 400 703.

8. The learned Advocate for the applicants states that the first installment of Rs.10 Lakhs was paid to the respondent no.2 on 6th April 2017. This fact is not disputed by the learned Advocate for the respondent no.2. So far as the balance amount of Rs.60 Lakhs is concerned, the learned Advocate for the applicant no.4 today handed over to the respondent no.2, 5 Demand Drafts each of Rs.10 Lakhs drawn in the name of the respondent no.2. So far as the balance amount of Rs.10 Lakhs is concerned, the learned Advocate for the applicant no.4 states that the applicant no.4 is ready with the Demand

Draft of an amount of Rs.10 Lakhs drawn in the name of the 'Registrar, High Court, Appellate Side, Bombay'. This amount is to be deposited in the High Court in pursuance of clause (2) of the Consent Terms, under which the parties agreed to deposit this amount of Rs.10 Lakhs with the Registrar of this Court for the benefit of minor daughter Anamta and the respondent no.2 is allowed to withdraw the same once the minor daughter Anamta attains the age of 18 years. The learned Advocate for the applicants submits that this amount of Rs.10 Lakhs would be deposited during the course of the day.

9. Upon deposit of the above referred amount of Rs.10 Lakhs with the Registrar of this Court, the Registrar is directed to invest the same in a fixed deposit of a nationalized bank initially for a period of 5 years and thereafter renew the same from time to time till the minor daughter Anamta attains the age of 18 years.

10. The respondent no.2 is at liberty to apply to the Registrar for withdrawal of amount of Rs.10 Lakhs referred above with interest accrued thereon on her daughter Anamta attaining the majority i.e. age of 18 years. The Registrar is directed to refund the said amount of Rs.10 Lakhs along with interest to the respondent no.2 on satisfying that the said minor daughter Anamta has attained the age of 18 years.

11. In the light of the above, it is clear that both applicant no.4 and the respondent no.2 who are present before the Court, agree that the Consent Terms are complied with by the parties, except

execution of 'Khulanama'. The respondent no.2 undertakes to remain present before the Court to execute 'Khulanama' within a period of four weeks from today.

12. In the above circumstances, the respondent no.2, on a specific query, states that she has gone through the contents of the petition and the Consent Terms and she has no objection to quash and set aside the proceedings of the subject criminal case against the applicants. She has also stated she has given consent out of her free will and without any force or coercion.

13. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of *B. S. Joshi Vs. State of Haryana*¹, we are of the view that quashing of the proceedings of the criminal case would be in the interest of respondent no.2. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject F.I.R. and further proceedings are required to be quashed. The petition is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)

¹ AIR 2003 SC 1386