

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3673 OF 2016

Mohammad Muzammil Abdulla Maniyar & Ors. .. Petitioners
Vs
The State of Maharashtra and Another. .. Respondents

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Shri Ram M. Upadhyay for the Petitioners.
Shri K.V.Saste, APP for the Respondent No.1.
Shri D.T. Tiwari i/b Shri Sushil Pandey for the Respondent No.2.

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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 23RD FEBRUARY 2017

ORAL JUDGMENT (PER A.S. OKA, J)

1. Heard the learned counsel appearing for the Petitioners, the learned APP for the first Respondent and the learned counsel appearing for the second Respondent.

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

3. The prayer in this Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under 498A of the Indian Penal Code. The first Petitioner and the second Respondent are the husband and wife. The second and third Petitioners are the parents of the first Petitioner. Reliance is placed on the consent terms filed in the Anticipatory Bail Application. In the consent terms, it is stated that the first Petitioner and the second Respondent agreed to cohabit together as husband and wife with their children. It is pointed out that there are three children born from the wedlock between the first Petitioner and the second Respondent. The consent terms record that the first Petitioner does not have any money and, therefore, the third Petitioner has given him a sum of Rs.70,000/- by way of cheque. It is stated that with the help of third Petitioner, the first Petitioner has taken a room on rent. It is stated in the consent terms that the first Petitioner will maintain the second Respondent and three children. The consent terms provide that the first Petitioner and the second Respondent will not keep any relations with the second and third Petitioners. The second Respondent has filed an affidavit accepting the said settlement.

4. As the settlement showed that the first Petitioner had no income, when a query was made to the learned counsel appearing for the Petitioners, he stated that the settlement was recorded on 29th June 2016. Thereafter, the first Petitioner has secured an employment. Accordingly, the first Petitioner filed an affidavit dated 1st February 2017 stating therein that he has been appointed as an employee by an agency namely “Arunoday Enterprises” and he is drawing the monthly salary of Rs.13,000/- to Rs.14,000/-. He has relied upon his Identity Card as well as Salary Slips from November and December 2016.

5. Under the orders of the Court, the Senior Inspector of Police, Santacruz Police Station has made necessary verification. A statement of one Shri Mahendra Khemji Chavan, who is running a business under the name and style as “Arunoday Enterprises” was recorded showing that the first Petitioner is employed through him with Sitara Jewellery Private Limited. The Senior Inspector of Police of Santacruz Police Station found that this contention of the first Petitioner is corroborated by other material. In the affidavit of the first Petitioner dated 1st February 2017, he has stated that he along with the second Respondent are residing separately. He has stated that as he is drawing the salary of Rs.14,123/-, he was capable of maintaining his wife and children. He has given an assurance to maintain them in Paragraph 7 of the said affidavit.

6. Even the Senior Inspector of Police of the Santacruz Police Station has found that the first Petitioner and the second Respondent are residing together along with their children.

7. Thus, it appears from the material placed on record that after registration of the offence, the first Petitioner and the second Respondent have started residing together in a premises taken by the first Petitioner on rental basis. Thus, it appears that the first Petitioner and the second Respondent have reconciled and are staying together as husband and wife with their children. Therefore, continuation of the criminal proceedings will be unjust to the parties. The matrimonial dispute was the root cause for registration of the offence. Now, the cause has disappeared. Therefore, this is a fit case to exercise power under Section 482 of the CrPC for quashing the criminal proceedings.

8. Accordingly, the Petitions must succeed and we pass the following order:

ORDER :

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

“(a) This Honourable Court be pleased to exercise its inherent power under section 482 of the Cr.PC. and be pleased to Quash F.I.R. No.96 of 2016 registered with

Santacruz Police Station, Mumbai for the offences punishable under section 498(A), & 34 of India Penal Code.”

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)