

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1325 OF 2016

Sachin Chandrakant Parab & Ors.

.... Applicants

versus

The State of Maharashtra & Anr.

... Respondents

.....

- Mr.V.V. Pethe, Advocate for the Applicant.
- Mrs.A.S. Pai, APP for the State/Respondent.
- Mr.Girish J. Paryani, Advocate for the Respondent No.2.

**CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.
DATE : 17th JULY, 2017.**

P.C. :

1. Heard the learned counsel for the applicants, respondent No.2 and learned APP.
2. The petition is filed under section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside the judgment and order dated 17/07/2015 passed by the learned Chief Judicial Magistrate, Thane in Regular Criminal Case No.0200102 of 2011. This case arises out of FIR registered vide

C.R.No.I-6/11, registered with Rabodi Police Station, Thane, against the applicants at the instance of respondent No.2 for the offences punishable u/s 498-A, 406 r/w 34 of the Indian Penal Code. By the said judgment and order the applicants were held guilty and convicted for an offence punishable u/s 498-A of the Indian Penal Code and were sentenced to suffer simple imprisonment of 3 months and to pay a fine of Rs.1,000/- by each of them, in default to suffer simple imprisonment of 15 days.

3. The present application is filed for quashing the said order of conviction and sentence by consent. Accordingly the respondent No.2 has also filed an affidavit dated 14/12/2016 giving no objection.

4. The application was placed before this Court on 10/01/2017. The statement was made by the parties that they are seeking dissolution of marriage between the applicant No.1 and respondent No.2 by mutual consent under provisions of 13-

B of the Hindu Marriage Act, 1955. In the light of statement, this Court deferred hearing of the application in order to enable parties to obtain the decree of divorce by mutual consent.

5. The parties accordingly placed on record operative part of order dated 10/07/2017 passed by the Incharge Judge, Family Court No.6, Mumbai, in Petition No.F-2729/16. The operative part of the order shows that the marriage between the applicant No.1 and the respondent No.2 is dissolved u/s 13- B of the Hindu Marriage Act. In the light of above, applicants have moved this Court for quashment of their conviction and sentence.

6. The respondent No.2 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has fully understood the contents thereof. She has stated that dispute between herself and her in-laws has been settled amicably and the marriage between herself and the applicant No.1 is dissolved. In the above

circumstances, she states that she has no objection to set aside conviction and sentence of the applicants.

7. The learned counsel for the applicants has confirmed the decision of Division Bench in the case of *Kiran Tulshiram Ingale, versus, Smt. Anupama P. Gaikwad & Ors, reported in 2006 Cri.L.J. 4591*, to contend that criminal proceedings can be quashed irrespective of there is order of conviction. We have gone through the said decision. The decision supports the contention of the learned counsel for the applicant. The Division Bench of in the said decision held that matrimonial offence can be compounded by quashing criminal proceedings in exercise of inherent powers.

8. 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 AIR 2003 SC 1386*, we are of the view that quashing of the

criminal proceedings 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 judgment and order of conviction dated 17/07/2015 passed by the learned Chief Judicial Magistrate, Thane in Regular Criminal Case No.0200102 of 2011 is quashed and set aside.

9. The petition is, accordingly, made absolute in terms of prayer clause (a).

10. Since the abovementioned order of conviction is set aside, the Appeal No.148/10 filed by the applicant challenging their conviction and pending before the Sessions Judge, Thane arising out of the said conviction order has rendered infructuous.

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)