

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APL) No. 257/2017

Jitendra and anr v. State of Maharashtra and anr

Applicants : 1. Jitendra S/o Punamchand Sadafale,
Aged about 30 years, Occupation Private
R/o Yogi Arvind Nagar, Nagpur-14

2. Usha w/o Punamchand Sadafale,
Aged about 55 years, Occupation Housewife,
R/o Yogi Arvind Nagar, Nagpur-14

Versus

Respondents : 1. State of Maharashtra, Through P.S.I,
Yashodhara Nagar, Police State Yashodhara
Nagar, Nagpur

2. Sau. Ratna w/o Jitendra Sadafale, aged about
28 years, Occupation Cloth Shop, At present
R/o Thana, Gondia-Amgaon Main Road, Taluka
Amgaon, Dist.- Gondia

Shri Manish R. Dawda, Advocate for applicants
Shri J.Y. Ghurde, A.P.P for the respondents/state

**CORAM : P.B.Varale and
M.G.Giratkar, JJ.**

DATE : 26.7.2017.

Oral Judgment : (Per Murlidhar G. Giratkar)

ADMIT. Heard finally with the consent of the learned counsel for the parties.

2. By the present petition, the petitioner has prayed to quash the

proceedings of Regular Criminal Case No. 73/2017 for the offences punishable under sections 498 (a) read with Section 34 of I.P.C and under Section 4 of Dowry Prohibition Act.

3. It is submitted that the respondent no. 2 is the legally wedded wife of petitioner no. 1. There was dispute between husband and wife. The petitioner filed a petition for divorce under Section 13 (1)(3) of Hindu Marriage Act. During the pendency of the proceedings before the Family Court, there was a compromise between the petitioner no. 1 and respondent no.2 wife. It was agreed by the respondent no. 2/wife to withdraw all the cases instituted on her report.

4. It is submitted that the respondent no. 2 lodged the report in Police Station Yashodhara Nagar, Nagpur and on her report crime was registered for the offences punishable under section 498-A read with section 34 of I.P.C and section 4 of Dowry Prohibition Act. After investigation, charge-sheet was file before JMFC Court no. 7, Nagpur. It is submitted that all the disputes are settled between the petitioner no. 1 and his wife-respondent no. 2. As per the agreement dated 21/07/2016, it was agreed by the respondent no. 2 to withdraw all the cases pending against the petitioner. The said agreement took place before the Family Court.

5. Notice was issued to the respondent no. 2/wife. Though, the respondent no.2 is served, she remained absent.

6. From the perusal of the documents filed on record, it is clear that divorce petition was filed by petitioner no. 1 before the Family Court, Nagpur. There was settlement between the petitioner no. 1 and respondent no. 2 on 21/07/2016. On the basis of the settlement, Family Court passed the decree of Divorce on 04/11/2016. It is clear that the petitioner no. 1 and the respondent no. 2 (Husband and Wife) have settled their dispute.

7. Therefore, in view of above and in view of the judgment of the Hon'ble Apex Court reported in **(2012) 10 SCC 303** in the case of **Giansingh v. State of Panjab and Haryana**, we allow the petition in terms of prayer clause no. 1, 2 and 3. The charge-sheet vide Criminal Case no. 73/2017 for the offences punishable under sections 498-A read with section 34 of I.P.C and section 4 of Dowry Prohibition Act, filed by P.S. Yashodhara Nagar, Nagpur is hereby quashed and set aside.

JUDGE

JUDGE