

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO.542 OF 2017

1. Naina w/o. Anand Bankar,
Aged about 32 years, Occ.
Service, r/o. Flat No.515,
Wing 2, Rai Gulmour Apartment,
Near Go Gas, Tekka Naka,
Kamptee Road, Nagpur.

2. Anand s/o. Durjan Bankar,
Aged about 34 years, Occ.
Service, r/o. 26, Sai Shardha
Nagar, Barde Layout,
Divya Nagari Road, in front
of S.N. Public School,
Godhani Road, Nagpur.

..... **APPLICANTS**

// VERSUS //

1. The State of Maharashtra,
through Police Station,
Jaripatka, Nagpur.

2.Durjan s/o. Shriram Bankar,
Aged about 62 years, Occ.
Retired, r/o. 26, Sai Shardha
Nagar, Barde Layout, Divya
Nagari Road, in front of S.N.
Public School, Godhani Road,
Nagpur.

3.Maya w/o. Durjan Bankar,
Aged about 60 years, Occ.
Service, r/o. 26, Sai Shardha
Nagar, Barde Layout, Divya
Nagari Road, in front of S.N.
Public School, Godhani Road,
Nagpur.

4.Nikita d/o. Eknath Lambhate,
Aged about 29 years, Occ.
Nil, r/o. Timki, in front of
Hanuman Mandir, Timki Road,
Near Naina Footwear, Nagpur.

..... RESPONDENTS

Mr.P.Sathianathan, Advocate for the Applicants.
Mr.A.M.Deshpande, A.P.P. for Respondent No.1.
Mr.S.S.Nerkar, Advocate for the Respondent Nos.2 to 4.

CORAM : ANOOP V. MOHTA AND
M.G.GIRATKAR, JJ.

DATED : 3rd OCTOBER, 2017.

ORAL JUDGMENT (Per M.G.Giratkar, J) :

1. The Criminal Application is admitted and heard finally
with the consent of the learned Counsel for the parties.

2. By this Criminal Application, the applicants have prayed to quash and set aside the proceedings arising out of Crime No.206 of 2013 for the offences punishable under Sections 498-A, 406, 323, 504, 506, 377 and 34 of the Indian Penal Code registered as Regular Criminal Case No.4920 of 2013 pending before the Judicial Magistrate, First Class-7, Nagpur and also to quash and set aside the proceedings in Misc. Criminal Application No.1107 of 2013 pending on the file of 17th Joint Civil Judge (Jr.Dn.) and J.M.F.C. (DV Act), Nagpur against applicant no.2 and non-applicant nos. 2 to 4.

4. It is submitted that applicant nos. 1 and 2 were husband and wife. Their marriage was solemnized on 18.11.2011. Due to some differences, applicant no.2 filed a Petition u/s.13(1)(ia)(ib) r/w. Section 10 of the Hindu Marriage Act for dissolution of marriage. Applicant no.1 lodged a report. Offences punishable under Sections 498-A, 406, 323, 504 506, 377 and 34 of the Indian Penal Code were registered against applicant no.2 and non-applicant nos. 2 to 4. Later, there was a settlement between applicant no.1 and applicant no.2 before the Family Court. As per the settlement, applicant nos. 1 and 2 have settled all their disputes. Therefore, it is prayed to quash and set aside the proceedings as mentioned above.

5. Heard Mr.P.K.Sathianathan, learned Counsel for the applicants. He has submitted that the applicants have settled all the disputes out of Court. Therefore, it is prayed to quash and set aside all the proceedings as prayed for. Heard Mr.A.M.Deshpande, learned A.P.P. He has opposed the application.

6. Both the applicants and non-applicants with their Counsel filed a joint pursis dt.3.10.2017 and submitted that non-applicant no.2 executed a Gift Deed in favour of applicant no.1, as per compromise. Therefore, applicant no.1 does not want to prosecute her husband and his relatives.

7. Today, the husband and wife (applicant nos.1 and 2) with non-applicants are present before the Court. We have heard applicant no.1 Naina. She has stated that she does not want to prosecute her husband and his relatives. Therefore, it is prayed to quash and set aside all the Criminal proceedings pending before the J.M.F.C. Courts at Nagpur.

8. It appears from the submissions of applicant no.1/complainant that she will not state anything against her husband and his relatives against whom criminal cases are pending. Therefore, no fruitful purpose will be served by keeping all the criminal cases pending. In view of the law laid down by Hon'ble Supreme Court in the cases of Narinder Singh and Others vs. State of Punjab and Others, (2014) 6 SCC 466 and Gian Singh vs. State of Punjab and another reported in (2012) 10 SCC 303, the proceedings arising out of Crime No.206 of 2013 for the offences punishable under Sections 498-A, 406, 323, 504, 506, 377 and 34 of the Indian Penal Code registered as Regular Criminal Case No.4920 of 2013 pending before the Judicial Magistrate, First Class-7, Nagpur and the proceedings in Misc. Criminal Application No.1107 of 2013 pending on the file of 17th Joint Civil Judge (Jr.Dn.) and J.M.F.C. (DV Act), Nagpur against applicant no.2 and non-applicant nos. 2 to 4 are liable to be quashed and set aside.

9. Hence, we allow the Criminal Application in terms of the prayer clause (1) of the Criminal Application and quash and set aside the proceedings arising out of Crime No.206 of 2013 for the offences punishable under Sections 498-A, 406, 323, 504, 506, 377 and 34 of

the Indian Penal Code registered as Regular Criminal Case No.4920 of 2013 pending before the Judicial Magistrate, First Class-7, Nagpur and also quash and set aside the proceedings in Misc. Criminal Application No.1107 of 2013 pending on the file of 17th Joint Civil Judge (Jr.Dn.) and J.M.F.C. (DV Act), Nagpur against applicant no.2 and non-applicant nos. 2 to 4. Order accordingly.

No order as to costs.

JUDGE

JUDGE

[jaiswal]

