

IN THE HIGH COURT OF BOMBAY AT GOA***CRIMINAL MISC.APPLICATION MAIN NO.243 OF 2018***

Francisco Cordoso and Anr. ... Applicants

Versus

The State of Goa & 2 Ors. Respondents

Mr. Deepak Gaonkar, Advocate for the Applicants.

Mr. S.R.Rivankar, Public Prosecutor for Respondent nos.1 & 2.

Mr. Shailesh Redkar, Advocate for Respondent no.3.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 16 October 2018.

P.C. :

By this application, the Applicants have sought to invoke the inherent powers under Section 482 of the Code of Criminal Procedure to quash the Final Report/Charge-sheet No.56/2007 dated 20 June 2017 and the consequent Criminal Proceedings pending against the Petitioners before the Court of Judicial Magistrate First Class at Bicholim 'B' Court vide Criminal Case No.80/S/2017/B.

2. The application is moved on the ground that the Applicants and the Complainant have compromised the dispute,

which is essentially a dispute amongst the family members.

3. Notice was issued to the Respondent no.3 – the complainant. The Respondent no.3 - the Complainant is represented through an advocate and has filed an affidavit on 10 October 2018.

4. The Applicant nos.1 and 2 are brother and sister. The Respondent no.3 - the Complainant is the wife of the Applicant no.1 and sister-in-law of the Applicant no.2.

5. The Applicant no.1 and the Respondent no.3 were married on 5 June 2014. The Respondent no.3 - the Complainant, after her marriage started staying in the matrimonial house. It appears that some differences arose. The Respondent no.3 registered an F.I.R. No.70/2017 on 10 May 2017 under Sections 498-A read with Section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, 1861. The Respondent no.3 also filed an application under Section 12 of the Protection of Women From Domestic Violence Act, 2005 as D.V.A.No.4/2017/C. Thereafter the Applicants and Respondent no.3 resolved their dispute and filed consent terms before the learned Magistrate in DVA No.4/2017/C which were disposed of by the learned Magistrate.

6. The learned counsel for the Applicants and the Respondent no.3 informed the Court that the Applicant no.1 has agreed to pay certain amount to the Respondent no.3 and part of which has already been received by the Respondent no.3. These facts have been stated on oath that the parties have decided to settle their dispute. In the affidavit filed by the Respondent no.3 the said fact is reiterated and the Respondent no.3 has stated that all matrimonial disputes are settled and she has no objection for the reliefs prayed for in the application.

7. Having heard the learned counsel for the Applicants, Respondent no.3 and the learned Public Prosecutor, we are of the opinion that in view of the stand taken by the parties, there is no possibility of any conviction and any further proceedings would only to be an harassment to the Applicants and the Respondent no.3. In fact, their efforts to amicably resolve the matrimonial dispute and bring peace within the family will be jeopardized. Therefore, following the law laid down by the Apex Court in the cases of *Gian Singh Vs. State of Punjab and Anr.*¹, *Narinder Singh and others Vs. State of Punjab and another*² and *Parbatbhai Aahir alias Parbatbhai Bhimsinbhai Karmur and others Vs. State of Gujarat and another*³,

1 2013 ALL SCR 171

2 (2014) 6 SCC 466

3 (2017)9 SCC 641.

the proceedings need to be quashed and set aside, as the case is made out for exercise of the inherent powers to secure the ends of justice.

8, Accordingly, the Criminal Application is allowed in terms of Prayer Clause (b) which reads thus:

“This Hon'ble Court be pleased to allow this Petition and in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, be pleased to quash Final Report/Charge-sheet No.56/2007, dated 20 June 2017 and the consequent Criminal Proceedings pending against the Petitioners before the Court of Judicial Magistrate First Class at Bicholim 'B' Court vide Criminal Case No.80/S/2017/B.”

9. Order accordingly.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.