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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.138 OF 2018***

Vijaysingh Kishorsingh Pardeshi and Ors. ...Applicants
Versus
Pooja Vijaysingh Pardeshi and Anr. ...Respondents

Mr.Y.G.Thorat i/b Mr.A.B.Tajane, for the Applicants.

Mr.R.B.Vijaymane, for the Respondent No.1.

Mr.K.V.Saste, A.P.P for the Respondent-State.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
DATE : 17th JULY, 2018***

P.C. :

1. The above Criminal Application has been filed for quashing of the proceedings being Regular Criminal Case No. 697 of 2016, pending on the file of the learned 3rd Joint Civil Judge Junior Division and Judicial Magistrate First Class, Solapur. The said proceedings have arisen out of C.R. bearing No.165 of 2016 (FIR No.143 of 2016), registered with the Vijapur Naka Police Station, Solapur City, Solapur, on 14th March, 2016, for the offences punishable u/s 498A, 323, 504, 506 r/w 34 of the Indian Penal Code. The said FIR has arisen on account of the marital discord between the Applicant No.1 and the Respondent No.1, who are husband

and wife. It is not necessary to dilate further on facts. The parties were before the Family Court in Marriage Petition being M.J.Petition No.A-687 of 2016, which was filed for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955. The said Marriage Petition came to be allowed by the learned Principal Judge of the Family Court, Pune, vide Judgment and Order dated 15th September, 2017 and consequently the marriage between the Applicant No.1 and the Respondent No.1 came to be dissolved.

2. The Respondent No.1 has filed an affidavit in the above Criminal Application bearing today's date i.e. 17th July, 2018 and affirmed before Mr.Bidhu Panicker, Notary, Govt. of India, having his office at 303, Sandeep Apt., Plot No.A/197, Sector – 20, Near Balaji Temple, Nerul (W), Navi Mumbai. In the context of the relief sought in the above Application, paragraph 4 of the said affidavit is material and is reproduced herein under :-

“4. I say that there is no influence, coercion or force or misrepresentation and I have given voluntary consent to settle the matter and I do not have any objection for quashing the (F.I.R no.143 of 2016) dated 14/3/2016,

U/s 498A, 323, 504, 506 r/w section 34 of IPC registered at Vijapur Naka police station, Solapur city against the Accused No.1 Vijaysingh Kishorsingh Pardeshi, Accused No.2 Amarsingh Kishorsingh Pardeshi, Accused No.3 Jayshree Kishorsingh Pardeshi, Accused No.4 Poonam Amarsingh Pardeshi & the consequent R.C.C. No.697 of 2016.”

3. The Respondent No.1-Pooja Vijaysingh Pardeshi, is personally present in Court. She is identified by the learned counsel Mr. Vijaymane. She is also identified by her Aadhaar Card bearing No. 4267 2174 1530, which stands in her maiden name Pooja Ramesh Rajput. When put in the box and queried, she states that she has been read over and explained the affidavit which is filed in this Court and she has accordingly understood the contents of her affidavit filed today. She further states that she has filed the said affidavit in view of the settlement between the parties. She lastly states that she has filed the said affidavit of her own free will and volition.

4. The Applicant No.1-Vijaysingh Kishorsingh Pardeshi is also personally present in Court. He is identified by the learned counsel Mr.Thorat h/f Mr.A.B.Tajane. He is also identified by his Aadhaar Card

bearing No. 8378 2955 3774. When put in the box and queried, he accepts the factum of settlement between the parties as also the Decree of divorce which has been granted in the Marriage Petition dissolving the marriage between him and the Respondent No.1. It is not necessary to record the statements of the other Applicants, in view of the statement recorded of the Applicant No.1.

5. Having regard to the Decree of divorce passed by the Family Court, the affidavit filed by the Respondent No.1 and the statements made by the Respondent No.1 and the Applicant No.1 when put in the box and queried, same unequivocally indicate that the parties have settled the dispute, as a result of which the Respondent No.1 does not desire to proceed with the case in question.

6. In the said context, a useful reference could be made to the judgments of the Apex Court in the matter of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which hold that no useful purpose would be served in continuing the

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

proceedings as continuation of the proceedings would be a futile exercise as there is minimal chance of the evidence coming forward.

7. The above Criminal Application is therefore required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The proceedings in question being Regular Criminal Case No. 697 of 2016 would resultantly stand quashed and set aside.

8. The above Criminal Application is accordingly disposed of.

9. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Applicant No.1 to deposit costs of Rs.5,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)