

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

CRIMINAL APPLICATION (APL) NO.96/2018

Abhishek Pillai s/o Gopinathan Pillai and others

...Versus...

The State of Maharashtra, through P.S.O., Police Station Lakadganj, Nagpur and
another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.D. Meghe, Counsel for applicants
Shri S.B. Bissa, APP for non-applicant no.1
Mrs. P.M. Chandekar, Counsel for non-applicant no.2

CORAM : SMT. VASANTI A NAIK AND
ARUN D. UPADHYE, JJ.

DATE : 14/02/2018

By this criminal application, the applicants seek the quashing and setting aside of the charge-sheet dated 24/2/2016 registered against the applicants for the offences punishable under Section 498-A, 323, 504 read with Section 34 of the Penal Code and Section 3 and 4 of the Dowry Prohibition Act.

The applicant no.1 was married to the non-applicant no.2 on 2/6/2013 as per the customs prevailing in their community. The applicant no.1 was employed in the United States of America (USA) at the relevant time. Since the non-applicant no.2 did not secure the visa for travelling to USA she had lodged a complaint against the applicants in the police station alleging therein that she was harassed by the applicants. The non-applicant no.2 had filed an application for maintenance

and had also filed divorce proceedings against the applicant no.1. In the said proceedings the applicant no.1 was interviewed through video conferencing and the applicant no.1 and the non-applicant no.2 decided to secure a decree of divorce by consent. The consent terms were recorded by the Family Court and the marriage between the applicant no.1 and the non-applicant no.2 is sought to be dissolved by a decree of divorce by consent. The applicant no.1 has agreed to pay an amount of Rs.20,00,000/- to the non-applicant no.2 in lump sum towards full and final settlement and both the parties have agreed to withdraw the proceedings filed by them against each other. Since the dispute is amicably settled between the parties and the consent terms are filed in the Family Court the applicants and the non-applicant no.2 are desirous of seeking an order for quashing and setting aside the charge-sheet registered against the applicants and the trial that is pending against them.

The non-applicant no.2 is personally present in the Court today. Advocate Mrs. Chandekar, who appears for the non-applicant no.2, has identified the non-applicant no.2. We have talked with the non-applicant no.2 in the Court and she has stated that since the matter is settled between her and the applicants, she is not desirous of proceeding against the applicants in the criminal complaint lodged by her. It is stated that she desires to reside happily in future and hence, she wishes that the charge-sheet and the proceedings pending against the applicants should be quashed so that the proceedings should not bother her in future. It is stated that initiating proceedings for quashing the F.I.R. is also one of the conditions on which the applicant no.1 and the non-applicant no.2 have decided to

dissolve their marriage by a decree of divorce by consent.

We have perused the copy of the complaint lodged by the non-applicant no.2. It appears that the non-applicant no.2 was not permitted to travel to USA and due to the disappointment, she had lodged the complaint against the applicants as the applicant no.1 was in USA and the other applicants were in Nagpur. As the non-applicant no.2 is not desirous of prosecuting the matter in respect of the complaint against the applicants it would be necessary to quash and set aside the charge-sheet filed against the applicants as it is most unlikely that the prosecution would result in the conviction of the applicants. Hence, by following the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh and others...Versus...State of Punjab and another*, reported in *(2014) 6 Supreme Court Cases 466* and with a view to secure the ends of justice and to prevent the abuse of the process of Court, we wish to quash and set aside the charge-sheet filed against the applicants and the trial pending against them.

Hence, for the reasons aforesaid, the criminal application is allowed. The charge-sheet filed against the applicants as also the trial pending against them before the Judicial Magistrate First Class, Court No.3, Nagpur are hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE