

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

CRIMINAL APPLICATION [APL] NO.354 OF 2018

[Sau. Snehal Anshulkumar Kothari and others .vs. The State of Maharashtra]

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

Court's or Judge's orders

Shri N.R. Saboo, Counsel for the Applicants,
Ms Shamsi Haider, APP for Non-Applicant-State.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 20, 2018.

By this criminal application the applicants seek the quashing and setting aside of the first information report registered against the applicant nos.2 and 3 for the offences punishable under sections 498-A read with 34 of the Penal Code.

The applicant no.1-complainant was married to the applicant no.2 at Gondia on 7.11.2011 as per the Hindu rites and customs. The applicant nos.1 and 2 resided together till 1.4.2014 in Australia and thereafter the parties separated in view of the serious differences between them. The applicant no.1-wife lodged a complaint against the applicant no.2-her husband and the applicant no.3-her mother-in-law alleging therein that they had treated her with cruelty. On the basis of the said complaint, an offence was registered against the applicant nos.2 and 3 under the provisions of Section 498-A of the Penal Code.

During the pendency of the proceedings before the trial court at Amravati, the applicants have settled the matter and the applicant nos.1 and 2 have filed a joint petition for a decree of divorce by consent under Section 13-B of the Hindu Marriage Act. The petition filed by the applicant no.1 for a decree of

divorce on the ground of cruelty is converted into a petition for a decree of divorce by consent. The consent terms are recorded in the petition filed under Section 13-B of the Hindu Marriage Act. As per one of the terms in the petition, the applicant no.1 would take steps to ensure that the case registered against the applicant nos.2 and 3 on the basis of the complaint lodged by her is quashed and set aside.

The parties are personally present in the court today. The applicant no.1 states that since there were serious differences between her and her in-laws, she had lodged the report against the applicant nos.2 and 3. It is stated that the marriage between her and the applicant no.2 would be dissolved by a decree of divorce by consent and she wishes to live peacefully in future. It is stated that in view of the aforesaid, the first information report registered against the applicant nos.2 and 3 should be quashed and set aside.

After hearing the applicant no.1 for sometime, it appears that it would be necessary to quash and set aside the first information report registered against the applicant nos.2 and 3 as the parties have settled their differences/disputes and the applicant nos.1 and 2 have filed a joint petition for a decree of divorce by consent. With a view to ensure that the applicants live peacefully in future, it would be necessary to quash and set aside the first information report registered against the applicant nos.2 and 3, specially when it is unlikely that the prosecution would result in the conviction of the applicant nos.2 and 3 as the applicant no.1 is not desirous of pursuing the matter against them. Hence, by following the law laid down by the Hon'ble Supreme Court in the case of **Narinder Singh .vs. State of Punjab and others**, reported in (2014) 6 SCC 466, it would be necessary to quash and set aside the first information report with a view to prevent the abuse of the process of the court and to secure the ends of justice.

Hence, for the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicant nos.2 and 3 for the offences punishable under sections 498-A read with 34 of the Penal Code and the proceedings arising therefrom are hereby quashed and set aside. Order accordingly.

JUDGE

JUDGE

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