

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

CRIMINAL APPLICATION (APL) NO.346/2016

Shri Nilkhant s/o Tukaram Sarokar and others

...Versus...

The State of Maharashtra, through PSO Mukutbandh, Tehsil : Wani, District :
Yavatmal 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 N.S. Bhattad, Counsel for applicants
Shri K.L. Dharmadhikari, APP for non-applicant no.1
Ms Deepali V. Sapkal, Counsel (appointed) for non-applicant no.2

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

DATE : 12/02/2018

By this criminal application, the applicants seek the quashing and setting aside of the First Information Report (F.I.R.) registered against them for the offences punishable under Sections 498-A, 506 read with Section 34 of the Penal Code.

The applicant no.3 was married to the non-applicant no.2 on 2/6/2014 as per Hindu rites and customs. The non-applicant no.2 had started residing at Seloo after the solemnization of the marriage. There were several disputes between the applicant no.3 and the non-applicant no.2 and the non-applicant no.2 left the matrimonial home on 15/7/2015, never to return. The applicant no.3 had filed proceedings for restitution of conjugal rights. After the said proceedings were

filed, the non-applicant no.2 lodged a complaint against the applicants alleging therein that they had harassed the non-applicant no.2 for not fulfilling the demand of money and valuable security. On the basis of the complaint lodged by the non-applicant no.2, the F.I.R. was registered against the applicants for the offences punishable under Sections 498-A, 506 read with 34 of the Penal Code. With the intervention of the mediator in the proceedings filed by the applicant no.3 against the non-applicant no.2 for restitution of conjugal rights, the parties settled their dispute and filed an application under Section 13-B of the Hindu Marriage Act, 1955 for a decree of divorce by consent. The terms of the compromise were recorded and by the judgment and order of the Civil Judge Senior Division, Wardha dated 2/2/2018, the marriage solemnized between the applicant no.3 and the non-applicant no.2 is dissolved by a decree of divorce. In the aforesaid set of facts, since the parties have amicably settled their dispute, the applicants and the non-applicant no.2 seek the quashing and setting aside of the F.I.R. registered against the applicants.

The applicant no.1 and the applicant no.3 are personally present in the Court today. So also, the non-applicant no.2 is personally present. It is stated by the non-applicant no.2 that due to the disputes between her and the applicants, she had lodged the complaint against the applicants. It is stated that the matter is amicably settled between the applicants and the non-applicant no.2 and a decree of divorce is passed. It is stated by the non-applicant no.2 that she does not wish to prosecute the matter against the applicants.

In the circumstances of the case, it would be necessary to quash and set aside the F.I.R. registered against the applicants. It appears that within a short time after the solemnization of the marriage the parties had separated and after the applicant no.3 had filed the proceedings against the non-applicant no.2 for restitution of conjugal rights, the non-applicant no.2 had lodged a complaint against the applicants in the concerned police station. During the pendency of the proceedings before the Civil Judge Senior Division at Wardha, the applicants and the non-applicant no.2 have settled their dispute. The terms of the compromise are recorded by the Civil Judge Senior Division, Wardha by the judgment dated 2/2/2018. The non-applicant no.2 has clearly stated that she does not wish to prosecute against the applicants. If that is so, it is most unlikely that the prosecution would result in the conviction of the applicants. If the prosecution would not result in the conviction of the applicants, the continuation of the proceedings would result in the abuse of the process of Court. In any case, since the parties have amicably settled the matter between them, it would be necessary to quash and set aside the F.I.R. registered against the applicants by relying on 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*.

Hence, in the circumstances of the case, with a view to prevent the abuse of the process of Court and to secure the ends of justice, the F.I.R. registered against the applicants is hereby quashed and set aside. The criminal application stands

disposed of accordingly.

The professional fees of the learned Counsel for the non-applicant no.2 (appointed by the Legal Aid Sub-Committee) should be paid at the earliest.

With the disposal of the criminal application, the non-applicant no.2 is permitted to withdraw the amount deposited by the applicants in this Court in pursuance of the consent terms between the parties. Since it is stated that the non-applicant no.2 does not have a separate bank account, the father of the non-applicant no.2, namely, Maroti Bansi Mande is permitted to withdraw the amount deposited by the applicants in this Court in terms of the consent decree, for and on behalf of the non-applicant no.2.

Order accordingly.

JUDGE

JUDGE

Wadkar