

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO.177 OF 2017

SHEETAL DILIP PANDHARE
VERSUS
PAWAN SAHEBRAO PATIL

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Advocate for Applicants : Smt. Ghule-Palve Renuka
Advocate for Respondents : Shri Gangakhedkar S.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: April 10, 2019
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PER COURT :-

1. By this application, the applicant ex-wife prays for transferring RCS No.670 of 2017, filed by the respondent ex-husband before the learned VI Joint Civil Judge J.D. Nagpur, to the Court of the learned Civil Judge S.D. Ahmednagar.

2. I have heard the learned Advocates for the respective sides on 9.4.2019 and today.

3. It is undisputed that the applicant and the respondent had got married on 23.2.2004 and the petition for separation was filed in the Family Court at Nagpur in 2005. After contesting the proceedings in Petition No. A-119 of 2005, the Family Court, Nagpur delivered a judgment on 24.2.2009 and granted divorce. The wife preferred First Appeal No.122 of 2011, which came to be dismissed for want of

prosecution by order dated 11.7.2015. The applicant had filed RTC No. 446 of 2011, STC No. 1355 of 2012 and SCC No. 745 of 2014 at Ahmednagar. The respondent preferred a revision against the order passed in SCC no.745 of 2014 before the District Judge, Ahmednagar in Criminal Revision No. 126 of 2014.

4. Both the parties finally settled the dispute amongst themselves by preparing the consent terms Exhibit 61 and placed them before the learned VI Judicial Magistrate F.C. in Criminal Application No.703 of 2010. It is equally undisputed that the respondent paid an amount of Rs.17,50,000/- to the applicant. All the cases were agreed to be withdrawn by the respective sides and accordingly, all such cases were withdrawn. It was further agreed that though the parties would refrain from renewing any case or from developing any contact, they shall not enter into any further litigation.

5. The record reveals that the applicant filed a case in Crime No.135 of 2015 at the Tofkhana Police Station, Ahmednagar under Sections 354-D, 506, read with 34 of the Indian Penal Code (IPC) against the brother in law of the respondent. The said brother in law filed Criminal Application No. 5252 of 2015 before this Court and the same was allowed, by order dated 24.6.2016.

6. The applicant claims that she received a letter on 4.12.2014 and hence she filed another complaint before the Tofkhana Police Station, Ahmednagar on 8.12.2014 under Section 504 and 506 of the IPC. The respondent, his sister and sister-in-law approached this Court in Criminal Writ Petition No. 586 of 2016 and by an interim order, this Court has stayed the proceedings.

7. The respondent submits that he eventually got fed up with the series of complaints being filed by the applicant on false pretexts and instituted RCS No. 670 of 2017 against the applicant seeking permanent injunction against the applicant and her relatives from filing cases against the respondent and his relatives.

8. The record reveals that both the parties have agreed to keep away from each other and the respondent had complied with the condition of payment of Rs.17,50,000/- through a Demand Draft. The applicant admits that she has received the said money. The record further reveals that the applicant is lodging complaints on frivolous grounds, for example, that she alleged that one Satish Vitthalrao Durgude, who is the husband of the respondent's sister, uttered the words, "Hi Sexy". Further complaints have been filed on the ground that the applicant received some chits or notes or letters threatening her.

9. After this matter was heard on 27.3.2019, I had kept the option of referring the parties to a Mediator, so as to have a complete end to such bickerings. The applicant subsequently declined to have the matter referred to a Mediator. Thereafter, when the matter was heard on 9.4.2019, I had orally suggested to the parties that they would have peace by withdrawing all cases and would keep no contact with each other. Today, learned Advocate for the applicant submits, on instructions, that the applicant does not desire to withdraw the complaints filed by her before the Police Station.

10. This apparently indicates that the applicant, on the one hand, has accepted Rs.17,50,000/- as the full and final separation amount and on the other hand, has proceeded against the former husband and his relatives by filing various complaints in the Police Station.

11. This is a peculiar case, wherein the applicant, former wife, has proceeded against the former husband and his relatives by lodging police complaints in defiance of the terms of the settlement and after having accepted the amount of Rs.17,50,000/-.

12. Considering the above, I am of the *prima facie* view that the applicant, former wife, appears to be misusing and abusing the

process of law. Such a litigant cannot be granted any relief. As such, the respondent, former husband, is at liberty to seek injunctory orders from the trial Court in RCS No.670 of 2017, by praying for a direction that the applicant, former wife, should deposit the entire amount received by her from the husband, as a condition for considering her grievance.

13. In these peculiar facts, this application stands rejected.

(RAVINDRA V. GHUGE, J.)

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