

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.384 OF 2003

State of Maharashtra	)	Appellant
V/s.		(Org.Complainant)
1) Prashant Sadashiv Chaudhari	)	
Age-30 years	)	
2) Sadashiv Eknath Chaudhari	)	
Age-58 years	)	
3) Shakuntala Sadashiv Chaudhari	)	
Age-52 years	)	
4) Sushant Sadashiv Chaudhari	)	
Age-28 years	)	
5) Smita Sadashiv Chaudhri	)	
Age-25 years	)	
		)....Respondents
		(Org.Accused Nos.1 to 5)

Ms.Anamika Malhotra APP for Appellant-State.
Mr.Prashant Patil for respondent nos.1 to 5.

CORAM : K.R.SHRIRAM,J
DATE : 28.11.2019

P.C. :-

1. This is an appeal challenging an order of acquittal passed by the Judicial Magistrate (F.C) 7th Court, Nashik on 17.9.2002 acquitting accused of the offences punishable under Sections 498-A, 323, 504 & 506 read with section 34 of the Indian Penal Code. As respondents were not present, various orders came to be passed and

finally on 26.11.2019 an order was passed when respondent nos.1 to 5 remained present in Court. In compliance with the order of 26.11.2019 respondent no.1 Prashant Sadashiv Chaudhari has filed an affidavit affirmed on 26.11.2019, copy whereof has been handed over to the learned APP. In this affidavit it is mentioned that after the order of acquittal was passed, original complainant and respondent no.1 entered into a Compromise Deed dated 28.4.2003 following which they also obtained a divorce by mutual consent from Joint Civil Judge, Senior Division, Nashik. In the Compromise Deed, copy whereof is annexed to the affidavit along with the consent decree for divorce, it is stated that both the parties viz., original complainant and respondent no.1 who had filed criminal complaints against each other would withdraw all the cases filed against each other and would not file any other proceedings against each other. The Compromise Deed forms part of the consent decree and therefore has the imprimatur of the Court. Since this appeal has been filed by the State, the original complainant could not have withdrawn this appeal.

2. Considering the facts and circumstances of the case, learned APP states it would serve no purpose in pressing on with this appeal because :-

(a) the original complainant has forgiven the accused ;

KJ

(b) the original complainant has given an undertaking to withdraw all cases against accused ; and

(c) when there is already an order of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured acquittal, the presumption of their innocence is further reinforced, reaffirmed and strengthened by the trial Court. For acquitting the accused, the trial Court observed that the prosecution had failed to prove its case.

3. Learned APP therefore, prays that the appeal be accordingly disposed.

4. I see reason in the submissions of the learned APP because this is a private complaint of a dispute between two individuals and not an offence against public at large.

5. Accordingly appeal disposed.

(K.R.SHRIRAM,J)