

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 938 OF 2011

Roma Sukhajitsingh Saini	]
Aged 30 years, Residing at Yash Paradise,	]
F-Wing, Flat No. 603, Plot No. 4567,	]
Sector 8A, Airoli Navi Mumbai	]..Appellant
	(Ori. Complainant/Victim)
V/s.	
1. Nirmalsingh Habhansingh Saini	]
2. Balwinderkaur Nirmalsingh Saini	]
3. Harjitsingh Nirmalsingh Saini	]
All residing at 703 Cosmos Regency	]
Ghodbunder Road, Thane	]
4. Ajayabsingh Harbhajansingh Saini	]
Residing at 8-A, Kamal C.H.S., Naupada	]..Respondents/
	(Ori. Accused Nos. 2,3,4 and 5)
The State of Maharashtra	]
(Through Kapurbawadi Police Station	]..Respondent

WITH
CRIMINAL APPEAL NO. 1383 OF 2011

The State of Maharashtra	] Applicant/Appellant
	(Orig. Complainant)
V/s.	
1. Nirmalsingh Harbhajansingh Saini	]
Adult, Occu. Nil	]
R/at 703, Cosmos Regency,	]

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| | Ghodbunder Road, Thane |] |
| 2. | Balvinderkaur Nirmalsingh Saini |] |
| | Adult, Occu. Housewife, |] |
| | r/at 703, Cosmos Regency, |] |
| | Ghodbunder Road, Thane |] |
| 3. | Harjeetsingh Nirmalsingh Saini |] |
| | Adult, Occu. Service |] |
| | r/at 703, Cosmos Regency, |] |
| | Ghodbunder Road, Thane. |] |
| 4. | Ajayabsingh Harbhajansingh Saini |] |
| | Adult, Occu. Business, |] |
| | R/at 8A, Kamal Co-op. Housing |] |
| | Society, Naupada, Thana. |] |
| | |]....Respondents |
| | | (Orig. accused Nos. 1 to 4) |

 Ms. Rebecca Gonsalvez for Appellants.
 Ms. Pallavi Dabholkar-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 14th March 2019.

JUDGMENT :

1. The present appeal is filed by the original complainant Roma Sukhajitsingh Saini challenging the judgment and order passed by Extra Joint Ad-hoc Additional Sessions Judge, Thane dated 16th September, 2010 in Criminal Appeal No. 4 of 2009. That the Judicial Magistrate First Class, II Court, Thane vide judgment and order dated

16th December 2008 in RCC No. 583 of 2006 had convicted the accused Nos. 1 to 7 therein i.e. the respondents in the present appeal under section 498 (A) read with section 34 of the Indian Penal Code and sentenced them to suffer rigorous imprisonment for six months and to pay fine of Rs. 500/- each, in default, rigorous imprisonment for one month. The respondents herein had filed Criminal Appeal No. 4 of 2009 which was allowed by the Additional Sessions Judge, Thane. The State of Maharashtra has also filed an application seeking leave to life against the appellate judgment of the Additional Sessions Court. Hence, both the appeals are being decided by an common judgment.

2. It is the case of the complainant that she was married to Sukhajitsingh Saini on 11th May 2003 and was residing in the matrimonial house in a joint family. The complainant and her husband had secured jobs in Bangalore in November and December, 2004 and were residing at Bangalore. On 26th March 2006 the couple came to Thane to see a new born child of her her brother-in-law Harjitsingh and they were returned to Bangalore on 1st April 2006. However, on 28th March 2006 the complainant was asked by her father-in-law to stay back at Thane and hence her husband had left for Bangalore. It is her case that she was harassed and ill treated by her in-laws mostly on the ground that she could not conceive. She had withdrawn herself from her matrimonial house on 28th May 2006 and lodged a report to the police on 10th September 2006.

3. The husband of the appellant had filed a petition for divorce in the family Court at Thane. On 4th June 2018 both the parties to Petition No. A-506/2016 pending before the family Court at Thane had

drawn consent terms for divorce. It was agreed that the present appellant would withdraw all the allegations made against the respondents in the family Court Petition. She has further agreed to accept the lump sum alimony of Rs. 5 lakhs towards full and final settlement and the amount is deposited in the family Court at Thane. She had also agreed to withdraw the appeal filed by her against the respondents before the High Court i.e. the present appeal. Both the parties had signed the consent terms before the family Court, Thane and had also agreed to abide by the said terms drawn in the consent terms.

4. Today, the parties are present before this Court and the appellant who happens to be the original complainant has submitted through her advocate Ms. Gonsalvez that she does not wish to further prosecute the appeal on merits. In any case this is an appeal against acquittal. It is held in catena of decisions of the Hon'ble Apex Court that whenever the different views can be taken are possible in an appeal against acquittal, the Courts should not interfere with the judgment and order of acquittal. In this case the present one is matrimonial dispute between the parties and the fact that they have drawn consent terms and have parted their ways peacefully, it would be appropriate to dismiss the appeal on merits.

Hence, both the appeals i.e. Criminal Appeal No. 938 of 2011 and Criminal Appeal No. 1383 of 2011 stand dismissed with no order as to costs.

(SMT. SADHANA S. JADHAV, J)