

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL APPLICATION NO. 532 OF 2021

AMIT ARVIND JAIN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Patil Prakashsing B.

APP for Respondent No.1-State : Mr. A. S. Shinde

Advocate for Respondent No.2 : Mr. R.C. Bora

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 05th AUGUST, 2021**

ORDER :

1. Heard finally with consent at admission stage.
2. This application is filed for quashing of the criminal proceedings bearing Regular Criminal Case No. 579 of 2016 pending before the Court of J.M.F.C., Dhule on the basis of settlement.
3. Learned counsel for the applicants submits that applicant no.1 and respondent no.2 have arrived at a settlement and in terms of the said settlement, they have decided to end their relations

permanently. The parties have filed RCS/HM/60/2021 for divorce by mutual consent after settlement and the same is pending before the Principal Judge, Family Court, Bhopal (MP).

4. Learned counsel for respondent no.2 submits that applicant no.1 and respondent no.2 have filed a joint affidavit before this Court. There is no possibility of continuation of their marital life. Therefore they have voluntarily decided to get separated permanently. They have also filed the aforesaid petition for divorce by mutual consent which is pending before the Family Court, Bhopal (MP). Learned counsel submits that the terms of settlement are detailed in the joint affidavit. Respondent no.2 wife has agreed to withdraw the various proceedings initiated by her. Respondent no.2 wife also do not want to prosecute the applicants in R.C.C. No. 579 of 2016 pending before the Court of JMFC, Dhule, which is the subject matter of the present application.

5. We have also heard learned APP for the respondent-State.

6. It appears that the parties have arrived at a settlement and in terms of the said settlement, they have decided to get separated

permanently. We have perused the annexures and it appears that application no.1 and respondent no.2 have filed the case bearing Case No. RCS/HM/60/2021 in the Court of Principal Judge, Family Court, Bhopal (MP) under Section 13(B) of the Hindu Marriage Act, 1955 for divorce by mutual consent. We have carefully perused the contents of the joint affidavit. In terms of the settlement deed, it has been agreed that applicant no.1 husband shall pay total amount of Rs.25,00,000/- to respondent no.2 wife towards permanent alimony and future maintenance. In view of that, the respondent wife has waived all her rights of maintenance in future. In terms of the said settlement, applicant no.1 has paid Rs.20,00,000/- so far to respondent no.2 and the balance amount will be paid as per the settlement terms.

7. In the case of *Gian Singh v. State of Punjab and Others*, reported in (2012) 10 SCC 303, in para no.45 of the judgment, the Supreme Court has frame guidelines. Clause (a) of the said guidelines is important, which is reproduced hereinbelow :

“a. Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.”

8. In the case of *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another*, reported in *AIR 2017 SC 4843*, in para 15 the Supreme Court has summarised the broad principles and in terms of clauses (v) and (ix) laid down the prepositions which are reproduced hereinbelow :

“(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi)
(vii)
(viii)

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice”

9. In the instant case, we are satisfied that the parties have arrived at an amicable settlement voluntarily. They have decided to get separated permanently and for that purpose, even they have taken steps and filed the marriage petition for a decree of divorce by mutual consent. Applicant no.1 husband has paid a substantial amount to respondent no.2 for her future maintenance. Thus, considering the entire aspect of the case and in view of the ratio laid down by the Supreme Court in the case cited above, we proceed to pass the following order :

ORDER

- I. Criminal Application No. 532 of 2021 is hereby allowed in terms of prayer clause (B).

- II. Criminal Application No. 532 of 2021 is accordingly disposed off.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)