

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 CRIMINAL WRIT PETITION NO.1258 OF 2022

SAVITA @ ASHWINI W/O. SUBHASH DATIR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr Nitin Trimbak Tribhuwan
APP for Respondent No.1/State : Mr R.D. Sanap
Advocate for Respondent Nos. 2 to 7 : Mr Shrikrishna Solanke

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 3rd OCTOBER, 2022

PER COURT :

1. Heard finally with consent of both the sides.
2. Issue notice to respondent Nos. 1 to 7.
3. Mr Sanap, learned APP waives notice for respondent No.1/State and Mr Solanke, learned counsel for respondent Nos. 2 to 7 are present.
4. The petitioner/wife has assailed the order passed by the learned Additional Sessions Judge, Aurangabad in Criminal M.A. No. 328/2019 dated 18.08.2022 whereby her application for seeking withdrawal of the proceedings came to be rejected.
5. It is revealed during the course of brief hearing that there was matrimonial dispute between the present petitioner on one side and respondent No.2 to 7 on other side. As a result, the various proceedings came to be filed one under section 498-A coupled with other sections of IPC and another proceedings vide HMP No. 215/2022 (divorce proceedings).

6. The criminal case filed by the present petitioner vide R.C.C. No. 443/2016 went on trial and on conclusion of trial, respondent Nos. 2 to 7 came to be acquitted of the offences punishable under sections 498-A, 323, 504 read with section 34 of IPC.

7. Feeling aggrieved by the said Judgment and order of acquittal rendered by the Judicial Magistrate First Class, the State seems to have filed an appeal with the application for condonation of delay. That proceedings is numbered vide Criminal M.A. No. 328/2019 and when that proceedings was pending, present petitioner/original complainant Savita @ Ashwini W/o. Subhash Datir/original complainant appeared and submitted before the Court that all the matters between the parties have been amicably settled. As such, there is no propriety to prefer an appeal and further prosecute the appeal by condoning the delay. She sought permission to withdraw the appeal. But that application came to be rejected by the learned Additional Sessions Judge, Aurangabad.

8. In the above background, the petitioner and respondent Nos. 2 to 7 are before this Court.

9. Mr Tribhuwan, learned counsel for the petitioner has placed his reliance in case of ***Rajv Kumar Sharma & Anr. Vs. The State of Uttar Pradesh in Criminal Appeal No. 1599 of 2019 (Arising out of SLP (Crl.) No.155/2019)*** more particularly, para Nos. 5 and 6 and submitted that in view of the amicable settlement between the parties, the learned Additional Sessions Judge, Aurangabad ought to have allowed the application moved on behalf of the petitioner just to withdraw the appeal, but unfortunately, that

prayer was turned down. It is necessary to grant permission to withdraw the proposed appeal with the proceedings of Criminal M.A. No. 328/2019.

10. Mr Solankhe, learned counsel for respondent Nos. 2 to 7 fairly conceded this position. He submits that it is necessary to allow the application filed by the present petitioner before the learned Additional Sessions Judge, Aurangabad.

11. Mr R.D. Sanap, learned APP for the State also argued on the similar lines.

12. Having regard to the submissions of Mr Tribhuwan, learned counsel for the petitioner, Mr Solanke, learned counsel for respondent Nos. 2 to 7 and Mr R.D. Sanap, learned APP for the State/Respondent No.1 and in view of amicable settlement between the parties, it is necessary to allow this criminal writ petition. It is necessary to close the chapter and there must be quietus to the proceedings.

ORDER

- (A) The Criminal Writ Petition stands allowed in terms of prayer clause (B).
- (B) The Criminal Writ Petition stands disposed of accordingly.
- (C) Inform to the concerned Court.

[SHRIKANT D. KULKARNI, J.]