

BDP-SPS-TAC

BHARAT
DASHARATH
PANDIT

Digitally signed by
BHARAT
DASHARATH
PANDIT
Date: 2023.08.28
19:18:34 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 334 OF 2017**

Bhagesh Laxman Bhosale Applicant.
V/s
The State of Maharashtra & Anr. Respondents

**WITH
CRIMINAL APPLICATION NO. 335 OF 2017**

Laxman Sadashiv Bhosale and Ors. Applicants.
V/s
The State of Maharashtra and Anr. Respondents.

Mr. Omkar Nagwekar i/b B.G. Tangsali for the Applicants in both the above Applications.

Ms. M.M. Deshmukh, APP for the Respondent/State.

Ms. Prajakta Jagtap i/b P.H. Havnur for Respondent No.2 in both the above Applications.

**CORAM: NITIN W. SAMBRE &
RAJESH S. PATIL, JJ.**

DATE: AUGUST 24, 2023

P.C.:-

1] Both these Applications are taken out by the Applicants under the provisions of Section 482 of the Criminal Procedure Code, thereby invoking inherent powers of this Court for quashing of criminal proceedings.

2] Respondent No.2 – Rupali in both these Applications was married to Bhagesh, the Applicant in the first Application on 25.01.2016. It is the case of prosecution that all the Applicants in both the above Applications forced Respondent No.2 – Rupali to withdraw herself from the company of Bhagesh, which has resulted into matrimonial proceedings being initiated *inter se*. It appears that Crime No. 469 of 2016 punishable under Sections 377 and 506 of the IPC came to be registered against Bhagesh, the Applicant in Criminal Application No.334 of 2017. From the affidavit placed on record by Respondent No.2, it also appears that Crime No.433 also came to be registered against the Applicants in both the Applications for the offence punishable under Sections 498A, 406 read with Section 34 of the IPC which subsequently came to be numbered as CC/1427/PW/2021 pending before the learned Metropolitan Magistrate 61st Court at Kurla, Mumbai.

3] In the backdrop of matrimonial discord, complainant initiated DV Case No.95 of 2017 pending on the file of very same Magistrate, referred to above, so also divorce proceedings being

Petition-A/971/2017 were initiated by the Applicant-husband which are pending on the file of Family Court, Bandra, Mumbai.

4] Apart from above, in Criminal Application No.335 of 2017, prayer is for quashing of Crime No.433 of 2016 registered against the Applicants punishable under Sections 498A, 406 read with Section 34 of the IPC which is subsequently registered as CC/1427/PW/2021 pending on the file of very same Magistrate referred to above.

5] It appears that Applicant-husband and Respondent-wife have decided to amicably settle the matter upon intervention of elderly and respectable people from their family and Society. As such, Respondent No.2 – complainant has placed on record affidavit in both the matters, thereby extending consent for quashing of both the crime numbers and consequently criminal cases pending on the file of Metropolitan Magistrate.

6] Respondent No.2-complainant in this backdrop was confronted through learned APP Ms. Deshmukh as to whether she has voluntarily

given the affidavit and as to receipt of the amount of Rs 5 lakhs towards one time permanent alimony. Respondent No.2-complainant has stated through learned APP that she has voluntarily executed aforesaid affidavit and has acknowledged receipt of payment of Rs 5 lakhs as one time permanent alimony. In this backdrop, she has voluntarily extended consent for quashing of both the FIRs and criminal cases.

7] In the aforesaid backdrop, having regard to the stand taken by Respondent No.2-complainant, no purpose will be served by keeping the present proceedings pending, as the criminal prosecution cannot be taken to its logical end. Having regard to the law laid down by the Apex Court in the matters of *Gian Singh vs. State of Punjab & Anr* reported in **(2012) 10 SCC 303** and *Narinder Singh & Ors. vs. State of Punjab & Anr.* reported in **(2014) 6 SCC 466**, since the prosecution cannot be taken to its logical end, we deem it appropriate to allow both the Criminal Applications for quashing by consent in terms of prayer clause (b), subject to costs of Rs 10,000/- to be paid by each of the Applicants in Criminal Application No.335 of 2017 to Pasaydan

Balvikas Foundation to be deposited in its Account No.3775403155 with Central Bank of India [IFSC Code CBIN0285070] within four weeks and they are directed to place on record receipt of the payment of costs within the said period, failing which the above order of quashing of proceedings shall automatically stand recalled and this Court will be constrained to proceed against the Applicants in accordance with law.

(RAJESH S. PATIL, J.)

(NITIN W. SAMBRE, J.)