



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO.1637 OF 2023

Shri Prashant s/o Mohan Nimje, aged
about 32 years, Occ. Nil, R/o Plot No.27,
Manohar Vihar Colony, Hajari Pahad,
Nagpur – 440 007
(Husband of respondent no.2.

... APPLICANT

VERSUS

1. State of Maharashtra, through Police
Station Officer Kalmna, Police
Station, Nagpur.
2. Shivani w/o Prashant Nimje, aged
about 24 years, Occ. Nil, R/o C/o
Shri Ramesh Hedao, Plot No.28/A,
Gangabag Durga Chowk, Pardi,
Nagpur. Wife of Applicant

... NON-APPLICANTS.

Shri R. Kadu, Advocate for the applicant.
Shri Badar, Addl.PP for the State
Ms. I.S. Charlewar, Advocate for non-applicant no.2.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATED : 12.12.2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. The matter is taken up for final hearing by consent of the learned Counsel appearing for the parties.

3. This is an application seeking to quash the charge-sheet bearing R.C.C. No.1932 of 2019 arising out of Crime No.853 of 2018 registered with the Kalmna Police Station, Nagpur City for the offence punishable under Sections 498-A, 377 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, on account of the mutual settlement.

4. The couple got married on 11.11.2017. After the marriage, the informant started to reside with the husband and his family. The couple has hardly stayed together for four months. Since the informant felt persistent matrimonial harassment, she started to reside separately. It is her case that the applicant-husband and his family members used to harass her on account of various counts. The husband also insisted for unnatural intercourse, and therefore, the wife has filed a report. On the basis of said report, the Police have carried investigation and filed the charge-sheet. It is informed that yet, the Trial Court has not framed charges.

5. With the aid and intervention of the family members, the parties have mutually settled the entire dispute. Both have filed

different proceedings against each other. It was realized by both that there is no purpose in continuing the different proceedings and thus, they decided to put an end. Earlier the wife has filed a petition for divorce whilst the husband has filed a petition for restitution of conjugal rights. The Family Court has passed the Decree of Divorce whilst the husband's petition for restitution was rejected. Being aggrieved, the husband has filed two appeals challenging the decree of divorce as well as rejection of restitution. The wife has also filed an appeal challenging refusal to grant permanent alimony. Today, in these three proceedings also the respective appellants have filed a Pursis for withdrawal of the proceedings on account of settlement.

6. The informant has filed an affidavit along with the memorandum of settlement. As per the settlement, both parties have agreed to withdraw all the proceedings. The informant lady is present before the Court, who is identified by her Advocate Ms. Charlewar. She had stated about the settlement and gave her no objection to quash the criminal prosecution. Since there was no monetary settlement, we have particularly asked the informant lady about the settlement. In response, she would submit that though she has obtained the divorce, the appeal is pending and thus, there is uncertainty. In any eventuality, she do not want to continue the relationship with the husband and she want to

lead her further life as per her choice. In the circumstance, she took a conscious decision to withdraw all the proceedings and put to an end to the relationship. She has also stated that pendency of the appeal may preclude her from taking further decision.

7. It is a choice of lady to take appropriate decision. She has voluntarily settled the matter and decided to forgo the rights of maintenance. Though there are allegations attracting the offence punishable under Sections 377 of the IPC, however it is an affair between the husband and wife. The crime cannot be termed an antisocial of having large social impact. Particularly, considering the urge of the lady that she want to get free from the husband, she has agreed for the settlement. In the circumstance, continuation of prosecution amounts to abuse of the process of Court.

8. It is also pointed out that, the Police report was also against the parents-in-law of the husband, however, this Court has quashed the FIR to their extent in Criminal Application No.303 of 2022 vide order dated 17.08.2023. It is also informed that sister of the husband was also made an accused, who has been discharged by the Trial Court.

9. We have pointed out that at the instance of the Police

report, investigation was carried, charge-sheet has been filed as well as the Magistrate has taken steps to prosecute the criminal case. At this juncture, the learned Counsel for the applicant stated that the applicant would deposit sum of Rs.10,000/- towards costs.

10. In view of that the application is allowed. We hereby quash and set aside the criminal prosecution bearing the charge-sheet bearing R.C.C. No.1932 of 2019 pending on the file of Judicial Magistrate First Class, Nagpur arising out of Crime No.853 of 2018 registered with the Kalmna Police Station, Nagpur City for the offence punishable under Sections 498-A, 377 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. The applicant shall deposit costs of Rs.10,000/- within two weeks from today to the High Court Bar Association, Nagpur.

11. The Application stands disposed of.

12. Matter be placed on 03.01.2024 for noting compliance.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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