



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1036 CRIMINAL APPLICATION NO. 737 OF 2024

SANJAY S/O RADHAKISAN THOMBARE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. D.G. Nagode

APP for Respondent No. 1 : Mr. N.R. Dayama

Advocate for Respondent No. 2 : Mr. M.S. Kulkarni

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 30 APRIL 2024

PER COURT :

Heard both the sides.

2. The applicants are seeking quashment of the Regular Criminal Case No. 1676 of 2017 (Chargesheet No. 187 of 2017) pending on the file of the learned Judicial Magistrate First Class (Railway Court), Aurangabad, arising out of the FIR bearing Crime No. 727 of 2016 registered with Mukunwadi Police Station, Aurangabad, for the offences punishable under Sections 420, 406, 495 read with 34 of the Indian Penal Code, registered at the instance of respondent no. 2.

3. Respondent no. 2 who happens to be husband of respondent no. 7 lodged the FIR, inter alia, alleging that the

marriage was solemnized by deceit. Applicant no. 7 was already married but the fact was not disclosed when she was made to enter into the marriage.

4. Respondent no. 2 has filed affidavit-in-reply, *inter alia*, mentioning about amicable settlement having been reached and for the reasons recorded therein, the couple having applied for divorce by mutual consent before the Family Court at Ahmednagar.

5. Learned Advocate for the applicants tenders across the bar an undertaking of applicant no. 7 duly verified before the notary expressly undertaking to appear before the Family Court on quashment of the crime and expressly undertaking to do all necessary things to enable passing of the decree of divorce by mutual consent and expressly agreeing for not putting up any claim for money as agreed between the two sides, on her failure to appear before the trial Court.

6. Learned APP takes strong objection to quashment of the crime on the basis of consent.

7. The genesis of the crime and criminal case *ex facie* is a matrimonial dispute. For the reasons mentioned herein above, the

couple has decided to apply for divorce by mutual consent for the terms settled between them. In our considered view no public policy is involved. If the couple has decided to settle the dispute we see no hindrance to concede to their request.

8. The application is allowed. Crime No. 727 of 2016 registered with Mukunwadi Police Station, Aurangabad, for the offences punishable under Sections 420, 406, 495 read with 34 of the Indian Penal Code and consequential Regular Criminal Case No. 1676 of 2017 (Chargesheet No. 187 of 2017) pending on the file of the learned Judicial Magistrate First Class (Railway Court), Aurangabad, are quashed and set aside.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]