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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.192 OF 2024
IN
CRIMINAL REVISION APPLICATION NO.241 OF 2021**

PRADEEP PANDEY

..APPLICANT

VS.

1. THE STATE OF MAHARASHTRA
2. RASHMILATA PANDEY D/O. AMARNATH
PANDEY

..RESPONDENTS

Adv. Kafil Khan a/w Adv. Shakir Qureshi i/b. KSK Legal for
the applicant.

Mr. S. H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 24, 2024

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. The Criminal Revision Application No.241 of 2021 was
filed for setting aside the order dated 23.09.2021 passed by
the learned Additional Chief Metropolitan Magistrate, 22nd
Court, Andheri, Mumbai at Exhibit-3 i.e. discharge
application in C.C. No.124/PW/2010. The applicant is the
husband and the respondent No.2 is the wife. There were
matrimonial disputes between the parties which led to the

filing of C.R. No.48 of 2009 dated 30.01.2009 for the offences punishable under Sections 498-A, 323, 406 read with 34 of the Indian Penal Code. The parties then had filed the affidavits that the matter has been settled and they had moved ahead in life and therefore even this Court was informed that even respondent No.2 does not wish to proceed with the case bearing C.C. No.124/PW/2010 pending before the 22nd Metropolitan Magistrate Court at Andheri. This Court had passed the following order in the Interim Application No.2918 of 2021 in Criminal Revision Application No.241 of 2021 dated 24.04.2023 which reads thus :-

"1. Two distinct affidavits are filed in the Criminal Revision Application, one by the applicant Pradeep Pandey, who is present in the Court and another by respondent no.2, Rashmilata Pandey, resident of village Tarna Chungi, Post Office Shivpur, District Varanasi.

2. The affidavit filed by the wife is notarised before a Notary in Varanasi. The said affidavits are taken on record.

3. The applicant has filed a Criminal Revision Application being aggrieved by an order dated 23/9/2021 passed by the Addl. Chief Metropolitan Magistrate, rejecting the application for discharge in C.C. No. 124/PW/2010. The submission is, the discharge has been turned down despite of an important fact being highlighted that the marriage between the two have been declared null and void by the competent authority and therefore, provisions of Section 498A could not have been invoked.

4. An affidavit filed by respondent no.2 wife categorically state that during the pendency of the proceedings, the parties have mutually decided to settle the discord and a specific statement is made by her, that she do not want to continue with the Case no. 124/PW/2010, pending before the 22nd Metropolitan Magistrate Court at Andheri, and she is ready and willing to withdraw the proceedings and also the allegations made therein.

Apart from this, it is also agreed between the parties that the distinct proceedings which are mentioned in paragraph no.4 of the affidavit shall not be prosecuted by the respective parties.

Pertinent to note that these are the proceedings which are filed by the applicant husband against the wife.

5. A similar affidavit is filed by Pradeep Pandey i.e. the applicant, who has agreed to withdraw the proceedings instituted by him which are mentioned in para-4 and a statement is also made to the effect that he shall not press any dispute for claim against respondent no.2 in future pertaining to the facts and circumstances of the case.

In the wake of the two affidavits placed on record with the presence of the applicant Pradeep Pandey in the Court, whose identity has been established through his Aadhar Card by Court Sheristedar, I deem it appropriate to accept the undertakings given by the respective parties in the affidavit.

It is also worth to mention that pursuant to the marriage being declared null and void by the Competent Court, the applicant and respondent no.2 have re-married and have progressed ahead in their life and they want to put their quietus to the relationship, which they shared once upon a time.

6. Needless to state that in furtherance of the undertakings, the proceedings which are agreed to be withdrawn shall be withdrawn by both the parties. Since a specific statement is made by the respondent wife that she do not prosecute C.C.No. 124/PW/2010, where a discharge has been refused to the applicant, subject to she withdrawing the proceedings, the Revision Application stand disposed off."

3. Now learned counsel for the applicant made a grievance that the trial Court by the order impugned has not entertained the application for withdrawal of the proceedings moved by the respondent No.2's advocate.

4. Respondent No.2 has been duly served by the advocate's notice in this application. Though this is an interim application, in my opinion considering the facts of this case continuance of the proceedings before the trial Court will only an abuse of the process of the Court. This Court made categoric observations in the order dated 24.04.2023. According to me parties should not be made to suffer by making them litigate any further. The Revision was disposed of subject to the respondent No.2 withdrawing the proceedings. The respondent No.2 was ready to do so. Hence there is no point prolonging the agony of the parties. Instead of standing on technicalities, in the peculiar facts of this case, I am inclined to discharge the applicant-Pradeep Pandey in C.C. No. 124/PW/2010 before the 22nd Metropolitan Magistrate Court at Andheri, Mumbai. The trial Court may pass consequential orders.

- 5.** The interim application is disposed of.

(M. S. KARNIK, J.)