

(2016) 06 BOM CK 0081

In the Bombay High Court

Case No : Criminal Writ Petition No. 1453 of 2016

Abhijit Govind Katre

APPELLANT

Vs

Mrs. Prachi Abhijit Katre & Anr.

RESPONDENT

Date of Decision : 15-06-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 403, 409, 420, 463, 467

Citation : (2016) ALLMRCri 3077

Hon'ble Judges : Naresh H. Patil and Prakash D. Naik, JJ.

Bench : Division Bench

Advocate : Mr. Nikhil Chavan, Advocate, for the Appellant; Mr. Yogesh V. Patil, Advocate, Mrs. M.D. Deshmukh, APP, for the Respondent

Final Decision : Disposed Off

Judgement

Prakash D. Naik, J.—Rule. Rule is made returnable forthwith.

2. Learned APP waives service for Respondent No. 2 ? State.

3. The petitioner challenged the proceedings in R.C.C. No. 1058 of 2014 pending before the Court of Judicial Magistrate First Class, Pune. The said proceedings are initiated by first s punishable under Sections, 403, 409, 420, 463, 467 of the Indian Penal Code (for short "IPC"). Petitioner is being impleaded as an accused in the said proceedings. First respondent is the wife of the petitioner.

4. The grievance of the complainant in the subject criminal proceedings can be summarised as follows:-

The marriage between the petitioner and the first respondent was solemnized on 19th June, 2003. Complainant/first respondent was a sole proprietor of the concern viz SAS Associates. Due to nature of work and growing business, the complainant decided to turn the concern into a private limited company. However, the relations between the petitioner and the complainant were strained. On account of differences, the complainant started staying separately

from 29th March, 2012. The accused filed a petition for divorce on 18th July, 2013. The first respondent / complainant realised that the accused have created certain false documents to show that the complainant has resigned from the office as director of the said company. Hence, she filed a complaint on 10th January, 2014. The said proceedings are pending in the Court of JMFC, Pune.

5. The petitioner has stated that during the proceedings before the Family Court, the petitioner and first respondent have arrived at a compromise and settled their disputes. They have also filed a petition for divorce by mutual consent. A copy of the said petition has been annexed to this petition. In the said petition, it is stated that the first respondent shall withdraw the complaint filed by her which is pending in the Court of JMFC, Pune being number as R.C.C. No.1058 of 2014. It is also stated that they had agreed to initiate proceedings before the High Court for quashing the said complaint. The said divorce petition also contain several other terms and conditions.

6. We have perused the petition as well as the documents annexed therein. The counsel appearing for the petitioner as well as the first respondent have submitted that the parties have amicably settled the dispute. It is submitted that the petitioner and the first respondent being husband and wife had matrimonial disputes which are being resolved. It is further submitted that all the disputes between both the parties are being settled and in view of the settlement, first respondent has consented for quashing the prosecution launched against the petitioner.

7. We have considered the submissions advanced by the advocate appearing for the respective parties. The petitioner and the complainant are present before the Court and have stated that they have put an end to the dispute. It is apparent that there was matrimonial differences between the parties. They have filed a petition for divorce by mutual consent. They have also entered into a Consent Terms which are reflected in the said petition. It is clear that the prosecution under challenge is arising out of the matrimonial dispute between both the parties. In view of the circumstances, we are inclined to entertain the petition and grant the prayer made therein. Reliance is placed on the decision of the Apex Court in the case of *Gian Singh v. State of Punjab & Anr.* 2012 (10) SCC 303, The Apex Court in the said decision has observed that in a dispute which is of a private nature, the powers of quashing can be exercised by the High Court in the event of amicable settlement being arrived at between the parties. In view of the factual aspects of the present proceedings, we pass the following order:

ORDER

(i) Rule is made absolute.

(ii) The impugned proceedings in R.C.C. No. 1058 of 2014 pending before the Court of Judicial Magistrate First Class, Pune for the offences punishable under Sections, 403, 409, 420, 463, 467 of the Indian Penal Code stands quashed and set aside.