
(2015) 04 BOM CK 0388

In the Bombay High Court

Case No : Criminal Application Apl. No. 211 of 2015

Aniruddha Vasant Kher and Others

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 22-04-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 294, 323, 34, 427, 452

Citation : (2015) ALLMR(Cri) 4376

Hon'ble Judges : A.B. Chaudhari and P.N. Deshmukh, JJ.

Bench : Division Bench

Advocate : C.G. Barapatre, Advocate, for the Appellant; V.A. Thakre, A.P.P., for the Respondent

Final Decision : Allowed

Judgement

A.B. Chaudhari, J.—Rule. Rule is made returnable forthwith. Learned Additional Public Prosecutor waives service on behalf of respondent sole. By consent of rival parties, this Criminal Application is taken up for final hearing and disposed of by this Judgment and Order. Following are the Prayer Clauses in the present joint Application made by Applicant Nos. 1 to 4:-

"(1) quash and set aside the F.I.R. No. 244/2012 registered with Police Station, Ajni by applicant No. 3 against applicant No. and 2 for the offences punishable under Section 498-A , 504 , 506 read with 34 of I.P.C., as well as charge-sheet bearing Regular Criminal Case No. 3515/2012 (State Vs. Aniruddha and another) pending on the file of A.C.J.M., Nagpur;

(2) quash and set aside the F.I.R. No. 11/2013, as well as the Charge-sheet filed therein bearing Regular Criminal Case No. 1021/2013 (State Vs. Aniruddha) for the offences punishable under Section 452 , 294 , 506 (B), 323 , 427 of I.P.C., registered by Police Station, Ajni on the complaint lodged by Applicant No. 4 against Applicant No. 1, pending on the file of A.C.J.M., Nagpur;

(3) quash and set aside F.I.R. No. 3566/2013 as well as Summary Criminal Case No. 7261/2013 (State Vs. Aniruddha) registered with Police Station, Ajni on the complaint lodged by applicant No. 4 against applicant No. 1 pending on the file of A.C.J.M., Nagpur."

2. Counsel for the Applicants identified all the Applicants before this Court.

3. We have made a query from the Applicant No. 3 Anjali Aniruddha Kher. She submits that the divorce by mutual consent has already taken place and a decree has accordingly been passed. Counsel for the Applicants has invited our attention to page 16 of this Application, which is a photo copy of the certified copy of the Decree for Divorce by Mutual Consent dated 15th December, 2014 passed by Family Court No. 4, Nagpur, in Application No. F-235 of 2014.

4. Looking to the terms and conditions of the compromise that was arrived at between the parties and in view of the fact that the husband and wife have decided to separate, we think, they should be allowed to live in peace and a mere pendency of proceedings should not act as a legal filibuster in future for the parties to this Application. In so far as other two Prayer Clauses, namely [2] and [3] in the application, are concerned, they relate to the proceedings of F.I.Rs. filed by Applicant No. 4 father-in-law of Applicant No. 1 against Applicant No. 1. Since the entire dispute has now been settled and having regard to the decree of divorce between the contesting parties, we are satisfied that it is necessary to exercise power under Section 482 , Criminal Procedure Code, in the light of the judgment of Hon"ble Supreme Court in the case of Gian Singh Vs. State of Punjab and Another, . Hence we make the following order:-

[a] Criminal Application [APL] No. 211 of 2015 is allowed.

[b] Rule is made absolute in terms of Prayer Clauses [1], [2] and [3].