

(2018) 07 BOM CK 0158

In the Bombay High Court

Case No : Criminal Writ Petition No. 208 Of 2017

Harshad Arjun Phadte

APPELLANT

Vs

State of Goa

RESPONDENT

Date of Decision : 06-07-2018

Acts Referred:

Indian Penal Code, 1860 — Section 34, 498A
Dowry Prohibition Act, 1961 — Section 4
Code of Criminal Procedure, 1973 — Section 482

Citation : (2018) 07 BOM CK 0158

Hon'ble Judges : N.M. Jamdar, J; Prithviraj K. Chavan, J

Bench : Division Bench

Advocate : S. D. Lotlikar, Chaitanya Padgaonkar, Mahesh Amonkar, J. A. Lobo

Final Decision : Disposed Off

Judgement

N.M. Jamdar, J

1. Rule. Rule made returnable forthwith. The respondents waive service. Taken up for final disposal.

2. This Petition has been filed for quashing and setting aside the Charge-sheet filed by Respondent No.1 against the Petitioners in Mapusa Police

Station, which is subject-matter of Criminal Case No. IPC/274/S/2016/D.

3. Petitioner No.1 is the husband of Respondent No.2. Petitioners No. 2 and 3 are the in-laws of Respondent No.2. The marriage between the

Petitioner No.1 and Respondent No.2 took place on 8 December 2015. Some misunderstanding arose. Respondent No.1 filed Matrimonial Petition

No.71/2016 in the Court of Civil Judge, Sr. Division, Mapusa. Upon a complaint of Respondent No.2, Mapusa Police Station registered an FIR

being Crime No.232/16 under Section 498-A, read with Section 34 of the Indian

Penal Code and Section 4 of Dowry Prohibition Act. For

quashing of these criminal proceedings, the Petitioners have filed the present Petition.

4. During the hearing of this Petition, with the assistance of the learned Counsel appearing for the parties, various attempts were made for

reconciliation or to mutually resolve the dispute. We had also interviewed the Petitioner No.1 and Respondent No.2 in the Chamber.

5. The learned Counsel for the parties state that the attempts to resolve the dispute through mediation have been successful and the parties have

agreed to resolve their disputes amicably and they have prepared Consent Terms to put an end to all disputes pending between them. The

learned Counsel for the parties state that the parties are present in the Court and they have signed the Consent Terms in the Court. The Consent

Terms, duly signed by Petitioner No.1 and Respondent No.2 and their respective Counsel, are taken on record and marked X for identification.

6. The Consent Terms provide for accommodation for Respondent No.2, returning of certain ornaments and cash component. The learned Counsel

for the parties state that they will present these Consent Terms before the Court where the matrimonial proceedings are pending and seek divorce by

mutual consent. The Court where the matrimonial proceedings are pending will take up the matter on priority basis and dispose of the same on the

basis of the understanding arrived at by the parties.

7. It is also provided in the Consent Terms that Respondent No.2 will withdraw the criminal case pending before the Judicial Magistrate.

Respondent No.2 has also undertaken that she will withdraw the case pending before the Goa State Commission for Women, Panaji. The

undertakings given by the parties in these Consent Terms are accepted. The

8. Therefore, now what remains is the FIR No.232/2016 registered by Mapusa Police Station. Having considered the matter on various

occasions, we are of the opinion that this is a fit case where the inherent powers of this Court under Section 482 of the Code of Criminal

Procedure requires to be exercised to bring an overall peace and settlement. Such course of action has been indicated to be permissible by the

Apex Court in the case of Gian Singh vs. State of Punjab & anr.

9. In view of this position, taking the Consent Terms on record, accepting the

undertakings as above and with the above directions, we dispose of this Criminal Writ Petition by quashing and setting aside the FIR No.232/2016 lodged by the Mapusa Police Station and consequently further proceedings based on the said FIR.

10. Parties are directed to remain present before the Court where the matrimonial proceedings are pending on 11 July 2018 at 10.00 a.m..

11. Learned Counsel for Respondent No.2 states that the Criminal Appeal No.38/2018 pending before the Sessions Court, Panaji is due on 12 July 2018 and on that day request will be made for withdrawal.

12. As regards the proceedings pending before the Goa State Commission for Women, Panaji, Respondent No.2 states that an application for withdrawal will be filed within a period of two weeks from today.

13. The Writ Petition stands disposed of as above. All parties to act on duly authenticated copy of this order.