
(2013) 07 BOM CK 0259

In the Bombay High Court

Case No : Criminal Application (Apl) No. 433 of 2013

Mukthar Ahmad and Another

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Citation : (2013) ALLMR(Cri) 3645 : (2014) 1 DMC 714

Hon'ble Judges : P.D. Kode, J

Bench : Single Bench

Advocate : Muzammil Hussain, No. 1 and Ms. Deepti Mendhekar, No. 2, for the Appellant; D.B. Patel, Assistant Public Prosecutor, for the Respondent

Judgement

P.D. Kode, J.—Heard. Rule. Returnable forthwith. Heard finally by consent of parties.

2. By this joint petition, the applicants have prayed for quashing the charge sheet and R.C.C. No. 1865/2012 arising out of the said charge sheet and pending in the Court of 3rd Judicial Magistrate First Class, Nagpur. The said case has arisen out of Crime No. 154/2011 registered upon the report lodged by applicant No. 2 for offence u/s 498A of I.P.C. against applicant No. 1 with Lakadganj Police Station.

3. The petition is founded on the basis of the contention of the settlement having arrived in between the parties and during the said settlement the parties amongst other have agreed to dissolve their marriage as per the custom prevailing in the Muslim community and the applicant No. 2 having agreed to put an end to all the proceedings against the applicant No. 1.

4. Mr. Muzammil Hussain learned counsel for applicant No. 1 and Ms. Deepti Mendhekar, learned counsel for applicant No. 2 jointly submitted that in accordance with terms of settlement arrived at in between the parties, the divorce has taken place and an amount of Rs. 6 lacs towards permanent alimony has been agreed to be paid, out of which cheque for Rs. 3 lacs towards first

instalment has already been given to applicant No. 2. In view of the said submission, applicant No. 2 kept present before the Court by her counsel upon whose complaint the proceedings sought to be quashed, were initiated, was asked regarding the correctness of the said statement and thereon she submitted statements made being correct and furthermore herself being not desirous of continuing the said proceedings against the applicant No. 1.

5. The learned counsel for the applicants further submitted that the offence u/s 498A of I.P.C. being not compoundable, has necessitated to file the present proceedings. It is submitted that in view of the settlement arrived, now the proceedings in the said case for which the applicant No. 2 is not desirous, would be only an empty ordeal.

6. Having regard to the aforesaid and considering true import of Section 482 of Cr.P.C. as explained by the Hon''ble Apex Court in decision in the case of Manoj Sharma Vs. State and Others, further clarifying ratio in decision in case of B.S. Joshi and Others Vs. State of Haryana and Another, , it does appear that allowing the continuance of the criminal proceedings in the Court in spite of the parties having arrived at settlement will be an ordeal amounting to the abuse of the process of law.

7. In view of the same, Criminal Application No. 433 of 2013 is allowed. Having regard to the fact of parties having settled the matter, charge sheet arising out of Crime No. 154/2011 and case arising out of said crime pending on the file of 3rd Judicial Magistrate First Class, Court, Nagpur, for offence u/s 498A I.P.C. is here by quashed and result thereof applicant No. 1 is acquitted for said offence. Bail bonds executed by applicant and his surety, if any, stand discharged. Rule made absolute in the above terms.