

(2014) 04 BOM CK 0236

In the Bombay High Court

Case No : Criminal Application (Apl.) No. 95 of 2013 and 178 of 2014

Rahul

APPELLANT

Vs

Sau. Nisha

RESPONDENT

Date of Decision : 04-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2014) ALLMR(Cri) 2965

Hon'ble Judges : C.V. Bhadang, J;B.R. Gavai, J

Bench : Division Bench

Advocate : R.M. Patwardhan, Advocate for the Appellant; A.H. Laddhad, Additional Public Prosecutor, Advocate for the Respondent

Final Decision : Allowed

Judgement

B.R. Gavai, J.—Appearance of S/Shri K.V. Deshmukh, S.V. Deshmukh and Nitin Munghate, learned Advocates appearing for respondent Sou. Nisha is discharged. Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel appearing for the parties.

2. The applicants have prayed for quashing of the first information report No. 53 of 2012 registered at Hudkeshwar Police Station, Nagpur for the offence punishable u/s 498A read with Section 34 of Indian Penal Code in Criminal Application (APL) No. 178 of 2014 and in Criminal Application (APL) No. 95 of 2013, they have prayed for quashing the proceedings initiated by the respondent vide Miscellaneous Criminal Application No. 1392 of 2012 pending before the learned Judicial Magistrate, First Class, Akola u/s 12 of the Protection of Women from Domestic Violence Act, 2006.

3. The applicant Rahul was married to respondent Nisha on 25/5/2008. The criminal proceedings came to be initiated after the matrimonial discord between them. Similarly, the petition for divorce filed at the instance of applicant Rahul is pending before the Family Court.

4. It appears that the matter was referred for mediation and during the pendency of mediation proceedings, the applicant Rahul and respondent Nisha have agreed for mutual divorce. It has been agreed that applicant Rahul shall return the goods as per list to respondent Nisha. It has been further agreed that an amount of Rs. 8,50,000/- shall be paid by the applicant-husband to the respondent wife. Accordingly, an amount of Rs. 5,00,000/- has already been paid and the remaining amount is being paid today. It has been further agreed that after the amount is paid, the applicant Rahul would file application for converting the divorce petition in to the petition for divorce by mutual consent. It has been further agreed that respondent wife shall withdraw all the criminal proceedings against the applicant-husband and his relatives.

5. Both the parties are present before the Court. The respondent wife reiterate regarding settlement and receipt of an amount of Rs. 5,00,000/- The applicant-husband states that he would be paying remaining amount before the Family Court, during the course of the day.

6. The Apex Court in the case of B.S. Joshi and Others Vs. State of Haryana and Another, has held that if the matrimonial dispute between the parties is settled, the Court can exercise powers u/s 482 of the Code of Criminal Procedure for quashing the criminal proceedings. In that view of the matter, both the applications are allowed. Rule is made absolute in terms of prayer Clause (i) in both the applications.