
(2014) 02 BOM CK 0261

In the Bombay High Court

Case No : Criminal Application (Apl.) No. 359 of 2012

Shankar

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 34, 420, 498A, 504

Citation : (2014) ALLMR(Cri) 2420

Hon'ble Judges : B.R. Gavai, J;A.S. Chandurkar, J

Bench : Division Bench

Advocate : N.Z. Rizwy, Advocate for the Appellant; N.S. Khubalkar, Additional Public Prosecutor and Nisha N. Burange, Advocate for the Respondent

Judgement

B.R. Gavai, J.—Rule. Rule made returnable forthwith. Heard the learned Counsel for the parties finally by consent. The applicant and the non-applicant No. 2 were married to each other on 26.1.2011. However, it appears that the relations became strained within a short period and the applicant and the non-applicant No. 2 started residing separately.

2. On account of marital discord, FIR No. 75/2011 came to be registered by the non-applicant No. 2 against the applicant for an offence punishable u/s 498A, 323, 504 of the Indian Penal Code.

3. Similarly, a FIR came to be registered by the present applicant against the mother and brother of the non-applicant No. 2 being Crime No. 200/12 at Police Station City Kotwali, Amravati for the offence punishable u/s 420 read with Section 34 of the Indian Penal Code.

4. The applicant has approached this Court being aggrieved by the registration of a FIR u/s 498A of the Indian Penal Code and the pendency of the proceedings before the learned J.M.F.C. arising out of the said FIR.

5. During the pendency of the petition, a suggestion was given to the parties that

the parties should either arrive at a settlement or if not possible, then give a go by to their relationship without there being any litigation.

6. It was noticed by us that the parties have reached a stage of no return and the relationship between them was irretrievably broken. The parties had also agreed to give an end to their relationship. However, the dispute was only with regard to an amount which should be paid by the applicant to the non-applicant No. 2.

7. We had accordingly counselled the parties in chamber on 21.1.2014 in the presence of their respective Counsel. The parties had agreed that they will give an end to their relationship on the applicant paying an amount of Rs. 5,00,000/- to the non-applicant No. 2 towards full and final settlement for future maintenance and all other dues. It was further agreed that the non-applicant No. 2 shall not have any other claim against the applicant herein. It was further agreed that the parties would file a Petition for divorce by mutual consent before the Family Court, Amravati.

8. Accordingly, a petition has been filed by the parties before the learned Family Court, Amravati. The same has been numbered as Petition No. 10/14. A copy of the Petition dated 27.1.2014 has been placed on record by the learned Counsel for the parties.

9. We find that the relationship between the applicant and the non-applicant No. 2 is irretrievably broken. There is no possibility of reconciliation between them. The grievances of the parties against each other are of such a nature that there is no possibility of their being reconciliation between them even within a period of six months, for which the applicant and the applicant No. 2 would have to wait for passing the decree. In that view of the matter, we find that keeping the petition pending before the learned Family Court for a period of six months would be an empty formality.

10. We find that this is a fit case where this Court while exercising powers u/s 482 of the Criminal Procedure Code should give an end to all the pending proceedings between the parties. The same would give an end to two Criminal litigations and one Civil litigation.

11. The applicant has handed over a Demand Draft in the name of non-applicant No. 2 bearing No. 001650-42521102 drawn on Axis Bank dated 31.1.2014 in the sum of Rs. 5,00,000/- to the learned Counsel for the non-applicant No. 2 who in turn has handed over the same to the non-applicant No. 2. The parties are personally present in the Court and they reiterate that they desire to give an end to their relationship and also to all the proceedings pending between them. In that view of the matter, the Criminal Application is disposed of and rule is made absolute in the following terms:-

I. The proceedings before the learned J.M.F.C. Court No. 3, Amravati being R.C.C. No. 16/11 for the offence punishable under Sections 498A, 323, 504 read

with Section 34 of the Indian Penal Code are quashed and set aside,

II. The FIR filed at the instance of the applicant No. 1 against the mother and brother of the non-applicant No. 2 bearing Crime No. 200/12 registered in Police Station City Kotwali, Amravati is also quashed and set aside,

III. The decree for dissolution of marriage by mutual consent in Petition No. A/10/2014 is passed. The learned Family Court at Amravati is directed to draw a formal decree upon receipt of the certified copy of the order passed in the present proceedings.

IV. In facts and circumstances of the present case, there will be no order as to costs.