

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 30TH DAY OF NOVEMBER, 2015

BEFORE

THE HON'BLE MR. JUSTICE A.N.VENUGOPALA GOWDA

CRIMINAL PETITION NO.200877/2015

BETWEEN:

1. JOHN PRAVEEN KUMAR
S/O EBNEZER MOSES
AGE: 29 YEARS
OCC: SOFTWARE ENGINEER EMPLOYEE
R/O NO.3/1, 3RD FLOOR, 1ST CROSS,
INFANT JESUS CHURCH ROAD,
VIVEKNAGAR, BANGALORE- 560 047
AND ALSO AT 'MPHASIS', MAIN BRANCH,
BAGMANE TECHNOLOGY PARK,
BYRASANDRA, C.V. RAMAN NAGAR
BANGALURU- 93.
2. EBNEZER MOSES
S/O NOT KNOWN
AGE: 58 YEARS,
OCC: HEAD POLICE CONSTABLE,
R/O H.NO.32, H.C. LANE,
DAR QUARTERS, KALABURAGI.
3. SMT. PUSHPALATHA
W/O EBNEZER MOSES
AGED ABOUT 47 YEARS
OCC: TEACHER

R/O H.NO.32, HC LANE
DAR QUARTERS, KALABURAGI.

4. JOY SHEETAL
D/O EBNEZER MOSES
AGE: 25 YEARS,
OCC: HOUSEHOLD
R/O H.NO.32, HC LANE
DAR QUARTERS, KALABURAGI.

... PETITIONERS

(BY SRI CHAITANYAKUMAR CHANDRIKI, ADV.)

AND:

1. SMT. BHAGYA @ BHAGYAMMA
W/O JOHN PRAVEEN KUMAR
D/O DOLOMAN
AGE: 22 YEARS
OCC: HOUSEHOLD
R/O TYPE 7/7177, RTPS COLONY,
SHAKTI NAGAR RAICHUR- 584 101.
2. STATE OF KARNATAKA
THROUGH SHAKTI NAGAR P.S.
REPRESENTED BY S.P. RAICHUR- 584 101.

... RESPONDENTS

(BY SRI SHESHADRI JAISHANKAR M., HCGP FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C. PRAYING TO QUASH THE PROCEEDINGS PENDING

ON THE FILE OF CHIEF JUDICAL MAGISTRATE AT RAICHUR IN C.C. NO.95/2012 (P.C.NO.03/2011) AND QUASH THE ENTIRE CHARGE SHEET IN ITS ENTIRETY, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

Marriage of the 1st petitioner and the 1st respondent was solemnised on 25.10.2009. On account of the incompatibility, the spouses did not live together for a long period. M.C. No.24/2015 was filed by the respondent No.1 against the petitioner No.1, in the Court of Family Judge at Raichur, under S.10 of the Indian Divorce Act, 2001. A compromise petition under Order 23 Rule 3 CPC having been filed on 11.04.2015, the Trial Judge has accepted the compromise petition and dissolved the marriage solemnised on 25.10.2009 by granting decree of divorce vide Annexure- C.

2. The respondent No.1 having lodged P.C. No.3/2011 vide Annexure-A, was referred to respondent No.2, under S.156(3) Cr.P.C. by the CJM, Raichur for investigation and report. Crl.P.15533/2011 was filed by the petitioners, under S.482 Cr.P.C., to quash the proceedings of the said case in respect of which respondent No.2 registered FIR 133/2011. By an order dated 07.06.2012, the said petition was allowed and the FIR registered by respondent No.2 was set aside and the case was remanded to respondent No.2 to submit report, under S.202 Cr.P.C., to enable the learned Magistrate to proceed thereafter in accordance with law.

3. Learned advocates appearing for the parties submitted that after the order dated 07.06.2012 was passed in Crl.P.15533/2011, respondent No.2 has not submitted final report to the CJM at Raichur and the matter remains at the stage at which it was pending as on the date the said order was passed by this Court.

4. Petitioner No.1 and respondent No.1 are present before the Court.

5. This petition was filed under S.482 Cr.P.C. to quash the proceedings of C.C. No.95/2012 (PC No. 3/11), on the file of CJM at Raichur. Respondent No.1 is accompanied by her father Mr. Solomon. Learned advocates appearing for the petitioners and respondent No.1 submitted that the parties having entered into an amicable settlement in M.C.No.24/2015, on the file of the Judge, Family Court at Raichur, vide Annexure-B, a decree of divorce having been passed on 11.04.2015 vide Annexure-C, the impugned proceedings may be quashed.

6. The offences alleged by respondent No.1 against the petitioners are non compoundable. However, they pertain to matrimonial differences. Apex Court has carved out an exception for permitting the parties to compound the non-compoundable offences in family

matters and matrimonial disputes. (See *JITENDRA RAGHUVANSHI AND OTHERS Vs. BABITA RAGHUVANSHI AND ANOTHER*, (2013) 4 SCC 58). In the present case, the respondent No.1 submitted that this petition may be allowed and the impugned proceeding terminated in view of the settlement arrived at. I am convinced that the parties have entered into an amicable settlement and there is no pressure brought on respondent No.1 to withdraw the case in question.

7. In the circumstances, the parties can be permitted to compound the offences i.e., on account of the settlement arrived at in MC. No.24/2015 vide Annexure-C. Even otherwise, respondent No.2 having not proceeded after the order dated 07.06.2012 was passed in Crl.P. 15533/2011, in that, further investigation has not been undertaken and final report submitted against the petitioners to the CJM at Raichur, prosecution of the petitioners would amount to abuse of process.

In the result, the petition is allowed and the criminal case instituted by respondent No.1 and pending investigation before respondent No.2, FIR of which was submitted to the CJM at Raichur, against the petitioners, impugned herein, is quashed.

Sd/-
JUDGE

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