

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

SPECIAL LEAVE TO APPEAL (CRIMINAL) NO.2071/2020

HEMANT NAMDEORAO NAGRALE

Petitioner

VERSUS

PRATIMA @ RANI HEMANT NAGRALE & ANR.

Respondents

WITH

SPECIAL LEAVE TO APPEAL (CRIMINAL) NO.1839/2020

HEMANT NAMDEORAO NAGRALE

Petitioner

VERSUS

PRATIMA @ RANI HEMANT NAGRALE & ANR.

Respondents

O R D E R

1. The petitioner, an IPS Officer, filed petition No.A-1118 of 2008 seeking divorce on the ground of cruelty in terms of Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the VIth Family Court, Mumbai at Bandra.

2. By its judgment and order dated 25.02.2011, the Family Court allowed the petition and following operative directions were issued:

“1. The petition is allowed.

2. The marriage between the petitioner Hemant Namdeorao Nagrale and respondent - Pratima @ Rani Hemant Nagrale solemnized on 4th May 1990 at Nagpur; is hereby dissolved by a decree of divorce under Section 13(1)(ia) of Hindu Marriage Act, 1955.

3. The counter-claim of the respondent Pratima for restitution of conjugal rights, is rejected.

4. The petitioner Hemant shall pay maintenance of Rs.20,000/- per month to the respondent Pratima @ Rani, from the date of the petition i.e. from 28th April 2008.

5. The petitioner Hemant shall allow the respondent Pratima @ Rani to withdraw her share and the share of son Shivam from the Fixed Deposit kept in COSMOS Bank, Nagpur; of the amount of compensation for the land acquired by the government; for purchasing the house, and thereafter he shall pay the share of son Shivam.

6. The custody of daughter Ria shall continue to remain with the petitioner Hemant. Respondent Pratima @ Rani shall be entitled to access to the children - Shivam and Ria, as per their convenience after taking their appointments and under intimation to the petitioner.

7. The claim of the respondent for return of her Streedhan and other valuables and belongings, is rejected.

8. The petitioner shall pay litigation expenses of Rs.10,000/- to the respondent.

9. Decree be drawn accordingly."

3. After the aforestated order granting divorce, a private complaint was lodged by the respondent-wife on or about 30.08.2012 in the Court of the Additional Chief Metropolitan Magistrate, Court No.37, Fort at Mumbai against the petitioner, two doctors and two nurses alleging commission of offences punishable under Sections 498A, 323, 328, 341, 307, 504, 506(2) read with 34 and 120-B of the Indian Penal Code, 1860.

4. Thereafter, on 20.09.2013, Criminal Miscellaneous Application No.2350 of 2013 was filed by the respondent wife in the Court of M.F.C. (A.C. Court), Pune submitting *inter*

alia that appropriate protection order be issued under the provisions of the Domestic Violence Act, 2005 ('DV Act', for short) against the petitioner prohibiting him from committing any act of domestic violence; that by a suitable order, the respondent be allowed to enjoy shared household at the addresses given in Prayer 'B' of the petition; that the respondent be granted maintenance in the sum of Rs.2,50,000/- (Rupees Two Lacks Fifty Thousand Only) per month; and that the petitioner be directed to pay to her compensation in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) and a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) for litigation expenses.

5. On 17.01.2014, the petitioner filed Criminal Application No.45 of 2014 under Section 482 of the Code of Criminal Procedure, 1973 ('the Code', for short) in the High Court seeking quashing of the proceedings initiated by the respondent under the D.V. Act.

The petitioner also filed Criminal Application No.293 of 2014 seeking quashing of the Criminal Complaint filed by the respondent in the Court of the Additional Chief Metropolitan Magistrate, Mumbai.

6. The High Court by its two separate orders passed on 24.01.2020 rejected both the applications seeking quashing of respective proceedings.

7. We have heard Mr. Siddhartha Dave, learned Senior Advocate for the petitioner-husband in both the matters and Mr. Vinay Navare, learned Senior Advocate for the respondent-wife.

8. Insofar as the challenge to the rejection of application under Section 482 of the Code seeking quashing of criminal proceedings filed in the Court of Additional Chief Metropolitan Magistrate, Mumbai is concerned, Special Leave to Appeal [in Special Leave Petition (Cr1.) No.1839 of 2020] is granted.

Interim order granted in SLP (Cr1.) No. 1839 of 2020 shall continue to operate. Hearing of the appeal is expedited.

9. Insofar as the other matter [Special Leave Petition (Cr1.) No.2071 of 2020] questioning the rejection of the petition seeking quashing of the application moved by the respondent-wife under the provisions of the D.V. Act, 2005 is concerned, we see no reason to interfere in the matter as we propose to pass following directions:

1. Since the divorce granted by the Family Court on the ground of cruelty is pending consideration in First Appeal No.71 of 2011 before the High Court, and as the operative directions issued by the Family Court had granted permanent

maintenance to the respondent wife, all the issues pertaining to and raised in the application preferred under the D.V. Act, 2005 shall be gone into by the High Court in the pending First Appeal No.71 of 2011. Such a course is permissible by express terms of Section 26 of the D.V. Act.

2. For the effective consideration of the entire controversy, the application preferred under the D.V. Act shall stand transferred to the High Court for appropriate determination and disposal.
 3. The concerned Court at Pune shall transmit all the relevant record and papers to the High Court within two weeks of the receipt of the copy of this order.
 4. We request the High Court to consider disposing of the pending First Appeal along with all the submissions raised in the application under the D.V. Act and deal with the entirety of the controversy as early as possible and preferably within six months from today.
10. We have not and shall not be taken to have expressed any opinion on the merits of the matter which shall be gone into

independently.

11. The Registry is directed to send a copy of this Order to the concerned Court at Pune for compliance.

12. With these observations, SLP (Cr1.) No.2071 of 2020 stands disposed of.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

New Delhi,
December 13, 2021.

ITEM NO.15

COURT NO.2
(HEARING THROUGH VIDEO CONFERENCING)

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Cr1.) No.2071/2020

(Arising out of impugned final judgment and order dated 24-01-2020 in CRLA No.45/2014 passed by the High Court Of Judicature At Bombay)

HEMANT NAMDEORAO NAGRALE

Petitioner(s)

VERSUS

PRATIMA @ RANI HEMANT NAGRALE & ANR.

Respondent(s)

(IA No.20924/2021 - FOR CLARIFICATION/DIRECTION; IA No.40855/2020 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.48113/2021 - FOR EXTENSION OF TIME)

WITH

SLP(Cr1) No.1839/2020 (II-A)

(IA No.37079/2020 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.48162/2021 - FOR EXTENSION OF TIME)

Date : 13-12-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s) Mr. Siddhartha Dave, Sr. Adv.
 Mr. Ravi Prakash, Adv.
 Mr. Samir Malik, AOR
 Mr. Rajul Jain, Adv.
 Ms. Rhea Verma, Adv.
 Ms. Arushi, Adv.

For Respondent(s) Mr. Vinay Navare, Sr. Adv.
 Mr. Shashibhushan P. Adgaonkar, AOR
 Mr. Omkar Deshpande, Adv.
 Mr. Gagandeep Sharma, Adv.

 Mr. Sachin Patil, AOR
 Mr. Rahul Chitnis, Adv.
 Mr. Aaditya A. Pande, Adv.
 Mr. Geo Joseph, Adv.
 Ms. Shwetal Shepal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

SLP (Cr1.) No.2071/2020

The Special Leave Petition is disposed of, in terms of the
Signed Order.

Pending applications, if any, also stand disposed of.

SLP(Cr1) No.1839/2020

Leave granted.

Interim order granted in this matter shall continue to
operate.

Hearing is expedited.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER

(Signed Order is placed on the File)