

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL ORIGINAL JURISDICTION

CRIMINAL APPEAL NO.1817 of 2022
(Arising out of S.L.P.(Criminal)No.6761 of 2022)

HARSHEREKHA AJAY GARG & ANR. ...Appellant(s)

VS.

STATE OF MAHARASHTRA & ANR. ...Respondent(s)

WITH

CIVIL APPEAL NO.7706 of 2022
(Arising out of S.L.P.(Civil)No.283 of 2022)

O R D E R

Leave granted.

2. In the appeal arising out of SLP(Cr1.)No.6761 of 2022, the appellants have challenged the order dated 10.06.2022, passed by the High Court of Judicature at Bombay. By the said order, the High Court has dismissed the writ petition preferred by the appellants challenging the order dated 30.09.2021 passed by the Metropolitan Magistrate, Girgaum, Mumbai, issuing process against the appellants herein for the offence punishable under Section 31 of the Protection of Women from Domestic Violence Act, 2005.

3. On 05.08.2022, this Court referred the matter for mediation to Hon'ble Mr. Justice Kurian Joseph, Former Judge of this Court.

4. The appellants along with respondent no.2-Fazaa Shroff Garg have filed a joint application, I.A. No.136878/2022, informing this Court that with the intervention of the learned Mediator, the matter has been settled between the parties. The Memorandum of Settlement dated 12.09.2022 entered into between the parties reporting terms of the settlement has been produced along with the application.

5. In the joint application, the parties have prayed for dissolution of marriage solemnized on 12.02.2011 between appellant no.2-Anirudh A. Garg and respondent no.2-Fazaa Shroff Garg, on mutual consent in exercise of the jurisdiction of this Court under Article 142 of the Constitution of India subject to mutually agreed terms and conditions in the aforesaid memorandum of settlement.

6. In terms of the Memorandum of Settlement dated 12th September, 2022, Respondent No.2-Fazaa Shroff Garg alone has sole, exclusive and permanent legal custody and guardianship of the minor children (1) Avyaay and (2) Araaya and appellant No.2-Anirudh A. Garg will not pay any maintenance or other expenses for upbringing of the twin minor children during their minority. All the parties have agreed to withdraw the cases filed by them against each other. As per the said Memorandum of Settlement, it is also agreed upon by respondent No.2 that she would waive off all her rights over the premises i.e. 224, Tahnee Heights, B-Wing, 22nd Floor, Napean Sea Road, Mumbai, and shall vacate the said premises with all her belongings.

7. In light of the above, we are of the considered view that this is a fit case to invoke our jurisdiction under Article 142 of the Constitution of India and grant a decree of divorce by mutual consent in terms of the Memorandum of Settlement dated 12th September, 2022. Accordingly, the marriage between appellant No.2-husband (Anirudh A. Garg) and respondent No.2-wife (Fazaa Shroff Garg) stands dissolved by way of decree of divorce by mutual consent.

8. In view of the above:-

(i) The Criminal Application No. 311 of 2019 pending before the Hon'ble High Court of Bombay titled as "Fazaa Shroff - Garg v/s. The State of Maharashtra"(Application is filed u/s. 439(2) of the Code of Criminal Procedure 1973 for cancellation of Bail granted to Respondent No.2 by order dated 9th August 2019 passed by the Special Court under POCSO Act) for cancellation of Bail of Mr. Hare Ram Rai;

(ii) The D.V. No.6 of 2020 pending before the 40th M.M. Court, Girgaum, Mumbai, titled as "Fazaa Shroff Garg v/s. Anirudh Ajaykumar Garg & Ors." including Exhibit No. 11 of 2020 (Visitation Application) and Exhibit No.15 of 2020 (Maintenance Application);

(iii) The Summons Case No.869 of 2020 pending before the 40th M.M. Court, Girgaum, Mumbai, titled as "Mrs. Fazaa Shroff Garg vs. Mr. Anirudh Ajaykumar Garg & Ors.";

(iv) The POSCO Special Case No.631 of 2020 pending before the Sessions Court at Bombay in F.I.R-C.R. No. 48 of 2019 filed in Malabar Police Station on 27.05.2019 (Against Hari Ram, Anirudh Garg, Ajay Kumar Garg and Harshrekha Garg);

(v) The Petition No.A/156 of 2021 pending before the Family Court at Bandra, At Mumbai, for divorce and custody, including all interim applications pending therein; and

(vi) The Criminal Appeal No.49 of 2022, in Case No.06/DV/2020, pending before the Sessions Court No. 33, titled "Ajay Kumar Garg and Anr. Vs. State of Maharashtra & Ors." including Misc. Application No.501 of 2022," are hereby quashed.

9. The cases i.e. (i) The Criminal Writ Petition No.1598/2021(02 of 2020) pending before the High Court of Bombay titled "Harshrekha Ajay Kumar Garg & Ors. vs. The State of Maharashtra & Ors";

(ii) The Suit No.113 of 2021, a Suit for partition pending before the High Court of Bombay titled, "Avyaay Anirudh Garg & Ors. vs. Ajay Kumar Garg & Ors." including IA/1602/2021 (For Injunction Receiver), IA No.3059/2022 (Disclosure of Documents), IA/3431/2022-Anirudh Garg (Disclosure of Documents), IA/3432/2021-Ajay Kumar Garg (Disclosure of Documents) and any other interim Applications therein;

(iii) The Writ Petition No.8801 of 2021 (Stamp No. 23511/2021) pending before the High Court of Bombay titled "Fazaa Shroff Garg vs. State of Maharashtra & Ors." (Challenging Order dated 18.11.2021 passed by the parents and Sr. Citizen Tribunal);

(iv) The Special Leave Petition (Civil) No.283 of 2022, (Arising out of Judgment and Order dated 15th December, 2021 in Misc. Civil Application No.76 of 2021) pending before the Supreme Court of India, titled "Fazaa Shroff Garg vs. Anirudh Garg & Ors.",

(v) The Appeal (L) No. 16107/2022 in IA.1602/2021 in Suit No.113 of 2021 pending before the High Court of Bombay, titled "Avyaay Anirudh Garg & Ors. vs. Ajay Kumar Garg & Ors." (Appeal against order dated 1-2-2021;

(vi) The Writ Petition (L) No. 16383 of 2022 pending before the High Court of Bombay, titled "Ajaykumar Garg & Anr. Vs. State of Maharashtra & Ors." (Challenging order dated 20.04.2022 passed by the Appellate Tribunal- Parents and Sr. Citizen);

(vii) The Special Leave Petition (Criminal) No.006761 of 2022 pending before the Supreme Court of India, titled "Harshrekha A. Garg and Anirudh Garg vs. State of Maharashtra & Ors." (Arising out of Judgment and Order dated 10th June, 2022 in Crim. Writ Petition No.4412 of 2021), and

(viii) The Unnumbered Special Leave Petition (Civil) No. of 2022 pending before the Supreme Court of India, titled "Ajay Kumar Garg & Ors. vs. Avyaay Anirudh Garg & Ors." (Arising out of Judgment and Order dated 15th June, 2022 in Appeal (L) No.15935 of 2022 in Interim Application No. (L) No.9684 of 2021 in Suit No.113 of 2021), are hereby dismissed as withdrawn.

9. I.A.No.136878/2022 is allowed and the appeals are disposed of accordingly.

10. The parties shall abide by the terms and conditions as contained in the Memorandum of Settlement dated 12th September, 2022 without fail. No costs.

.....J.
[S.ABDUL NAZEER]

.....J.
[V.RAMASUBRAMANIAN]

New Delhi;
September 26, 2022.

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

Item No.30:

Petition(s) for Special Leave to Appeal (Crl.)No. 6761/2022

(Arising out of impugned final judgment and order dated 10-06-2022 in WP No. 4412/2021 passed by the High Court of Judicature at Bombay)

HARSHEREKHA AJAY GARG & ANR.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ANR.

Respondent(s)

(MEDIATION REPORT RECEIVED.

IA No. 101056/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 101057/2022 - EXEMPTION FROM FILING O.T.)

IA No.136878/2022 - APPLN. U/S 142 OF CONSTITUTION R/W SEC.13b OF HMA)

With

Item No.62:

Petition(s) for Special Leave to Appeal (C) No(s). 283/2022

Date : 26-09-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.
Ms. Lalit Mohini Bhat, Adv.
Ms. Saumya Tandon, Adv.
Mr. Anirudh Bhat, Adv.
Ms. Hetu Arora Sethi, AOR

Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Ankur Saigal, Adv.
Ms. Parul Shukla, Adv.
Ms. Sukriti Bhatnagar, Adv.
Ms. Aishwarya Dash, Adv.
Ms. Farah Hashmi, Adv.
Mr. Prashant Pratap, Adv.
Ms. Kajal Dalal, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s) Mr. K.V.Vishwanathan, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Ankur Saigal, Adv.
Ms. Parul Shukla, Adv.
Ms. Sukriti Bhatnagar, Adv.
Ms. Aishwarya Dash, Adv.
Ms. Farah Hashmi, Adv.
Mr. Prashant Pratap, Adv.
Ms. Kajal Dalal, Adv.
Mr. E. C. Agrawala, AOR

Mr. Aaditya A. Pande, AOR
Mr. Siddharth Dharmadhikari, Adv.
Mr. Bharat Bagla, Adv.

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

Leave granted.

The appeals are disposed of in terms of the signed order.
Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(KAMLESH RAWAT)
COURT MASTER

(Signed order is placed on the file.)