

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1594 OF 2007

SHAIK IBRAHIM

Appellant(s)

Versus

FATIMA BEE

Respondent(s)

O R D E R

1. We have heard learned counsel for the parties.
2. The order which is the subject matter of this appeal is with reference to the revision petition filed in the High Court by the wife-respondent herein. The High Court allowed the revision filed by the respondent and fixed a monthly maintenance of Rs.2,000/- in her favour from the date of claim petition i.e. from the month of January, 2005. The High Court also directed the husband (respondent before the High Court) to deposit the arrears of maintenance after adjusting the sum already paid, if any, to the wife (petitioner before

the High Court), under the compromise memo, within a period of six weeks from the date of its judgment.

3. Aggrieved by the said order, the present appeal has been filed by the husband. It is his case that before the trial court, the compromise petition was filed by both husband and wife and it is clearly stated by the parties that the petitioner and the respondent-wife entered into a compromise upon the condition that the husband-appellant herein has to pay an amount of Rs.45,000/- towards her mehar amount iddat period maintenance amount and life time maintenance amount and also further stated that in view of payment of amount of Rs.45,000/- paid by the respondent-husband, the petitioner-wife has no right to claim maintenance from him in the future. Their marriage was also dissolved by mutual consent and according to the appellant, the High Court has ignored the compromise and interfered with the order passed by the trial court and awarded the maintenance. It has been further stated that the respondent-wife has entered into another marital relationship and is living with the other spouse.

4. However, we have considered the entire material placed on record and the order passed by the trial Court and the High Court as also the compromise petition. The Compromise Petition which is annexed as Annexure P-5, reads as under :-

1. The petitioner admit and accept that there is no relationship of husband and wife between her and the respondent existing now due to divorce given by the respondent with the mutual consent of the petitioner on 8.6.2005 before Manvi Quaz. It is also admitted by the petitioner that by mutual consent of the parties, a divorce deed is executed on 8.6.2005 and by virtue of the said divorce given and divorce deed executed by the respondent the marriage between the petitioner and respondent has broken and their exists no relationship of husband and wife between them.

2. The petitioner further admits that the respondent has paid her a sum of Rs.45,000/- (rupees forty five thousand only) towards her mehar amount iddat period maintenance amount and life time maintenance amount. The petitioner in consideration of amount of Rs.45,000/- (rupees forty five thousand only) paid by the respondent, has no right to claim maintenance from the respondent in future.

3. Because of divorce taken place between the parties, no relationship of husband and wife exists between them. The parties are at liberty to lead life of their own choice and none will have any right, claim over another.

It is prayed that the petition may be disposed of in terms of compromise."

5. It is clear from the compromise petition that the wife agreed to a lump sum amount of Rs.45,000/- to be paid by the husband and gave up all further claims for maintenance.

6. We are of the considered opinion that the High Court has erred in passing such an order. Accordingly, we allow this appeal and set aside the order passed by the High Court.

.....J.
(N.V. RAMANA)

.....J.
(PRAFULLA C. PANT)

New Delhi,
April 06, 2017

ITEM NO.102

COURT NO.10

SECTION IIC

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1594/2007

SHAIK IBRAHIM

Appellant(s)

VERSUS

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(with office report)

Date : 06/04/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s)

Mr. Shankar Divate, Adv.

For Respondent(s)

Ms. Nidhi, Adv.

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

This appeal is allowed in terms of the signed order.

[SUKHBIR PAUL KAUR]
A.R.-CUM-P.S.

[S.S.R. KRISHNA]
ASSISTANT REGISTRAR

(Signed order is placed on the file)