

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 39 OF 2014

Vivek Shyamsunder Harlalka
and Others.

..Applicants.

Versus

The Senior Inspector of Police
& Others.

..Respondents.

WITH

CRIMINAL APPLICATION NO. 1135 OF 2013

Pradeep Shantilal Mody
and Others.

..Applicants.

Versus

State of Maharashtra and
& Another.

..Respondents.

Appearance in APL No.39 of 2014.

Mr. Rizwan Merchant i/b Rizwan Merchant & Associates for the
Applicants.

Mr. Anil P. Ghah and Sandeep Kakare for Respondent No. 2.

Mr. F. R. Shaikh, learned APP for the State.

Appearance in APL No.1135 of 2013.

Mr. Anil P. Ghah and Sandeep Kakare for the Applicants.

Mr. Rizwan Merchant i/b Rizwan Merchant & Associates for
Respondent No.2.

Mr. F. R. Shaikh, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **December 24, 2014.**

P. C. :

1. Heard Application No.39 of 2014 is filed for
quashing the FIR bearing C.R.No.43 of 2013 registered with
Gamdevi Police Station, Mumbai for the offence punishable
under sections 498A and 406 read with 34 of the Indian Penal

Code, 1860 at the instance of Respondent No.2. Whereas Application No.1135 of 2013 is filed for quashing the proceeding of MERC No.7 of 2013 registered by Marine Lines Police Station, Mumbai at the instance of Respondent No.2 for the offences punishable under sections 109, 454, 380, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. The Applicants in Application No.39 of 2014 are the husband and his parents whereas the Applicants in Application No.1135 of 2013 are the wife and her family members. FIR No.43 of 2013 is lodged by the wife with the Gamdevi Police Station and MERC No.7 of 2013 is registered with Marine Lines Police Station at the instance of husband.

3. Applicant No.1 in Application No.39 of 2014 and Applicant No.3 in Application No.1135 of 2013 got married in the year 2006. Unfortunately, matrimonial cord could not survive for long. Events took turn to the unpleasant events which led to the filing of civil and criminal proceedings against each other. Now the parties have settled their disputes amicably, which has taken them to come before this Court for

quashing of the criminal proceedings by consent.

4. In Application No. 39 of 2014, Respondent No. 2- the wife has filed her affidavit dated 16th December 2013. In para-5 thereof sh has stated that dispute is now amicably settled by and between herself and the Applicants and they have exeucted consent terms. She has annexed a copy of the said consent terms to her affidavit. In para-6, she has stated that she has no objection for quashing FIR 43 of 2013 lodged by her with Gamdevi Police Station.

5. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said statements in her affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the FIR in question initiated by her against the Applicants for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

6. In Application No. 1135 of 2013, Respondent No.

2-the husband has filed his affidavit dated 16th December 2013 wherein he has made statements on solemn affirmation similar to the statements made by the wife in her affidavit mentioned above. He has ultimately stated that he has no objection for quashing MERC No.7 of 2013 registered with Marine Lines Police Station at his instance.

7. Respondent No.2 is personally present before the Court. On specific query made by us, he submitted that he has made the said statements in his affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the MERC in question initiated by him against the Applicants for the offence punishable under sections under sections 109, 454, 380, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

8. In these quashing proceedings under section 482 of the Code of Criminal Procedure, 1973, we see no impediment in acceding to the requests made by the parties, moreso which is put forth by consent of the complainants. We

draw the support from the decisions of the Apex Court in B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386], Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], and Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] to hold that this is a fit case for quashing of the criminal proceedings in exercise of inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973. In the backdrop of above fact situation, Application No.39 of 2014 is allowed in terms of prayer clause (d) and Application No. 1135 of 2013 is allowed in terms of prayer clause (b).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]