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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 280 OF 2015

Punit Shyamlal Bhati and Ors.	..	Applicants
V/s.		
State of Maharashtra and anr.	..	Respondents

Mr. V.S. Bhanushali advocate for the applicant.

Mr. U.B. Nighot for respondent no. 1.

Mrs. M.M. Deshmukh, A.P.P. For the State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 21st DECEMBER, 2015

P.C. :-

Heard the learned counsel for the applicant, respondent no. 1 and learned A.P.P. for the State.

The learned counsel for the applicant, at the outset, makes a statement that the petition is restricted to the relief claimed in respect of Regular Criminal Case No. 700280/2012 pending on the file of Judicial Magistrate, First Class, Khadki Cantonment at Pune. The said case arises out of registration of FIR bearing CR No. 71 of 2012 with Vishrantwadi Police Station. Statement is accepted.

2. This application is filed under section 482 of the Code of Criminal Procedure to quash and set aside the criminal proceedings bearing R.C.C. No. 700280 of 2012 pending on the file of 1st Judicial Magistrate, Khadki Cantonment, Pune. The said case arises

out of the registration of FIR bearing No. 71 of 2012 registered with Vishrantwadi Police Station, Pune at the instance of respondent no.1 for the offence punishable under section 498A, 323, 504 read with 34 of Indian Penal Code. The applicant no.1 and respondent no.1 are the husband and wife and rest of the applicants are the family members of the applicant no.1. The matrimonial dispute gave rise to the filing of civil as well as criminal proceedings.

3. Pending the trial, the parties have settled their dispute amicably and accordingly entered into the settlement. A copy of the consent term is attached at Exh. B at Page 21. The applicant no. 1 agreed to pay to respondent no. 1 an amount of Rs. 5 lac towards permanent alimony. In the consent terms, they have agreed to quash the criminal case. Respondent no.2 has filed affidavit dated 23rd September, 2015. In paragraph 6 she has given no objection subject to the condition that the applicant ho.1 shall pay an amount of Rs. 5 lac to respondent no. 1. The respondent no.1 is personally present in the Court. On being questioned, respondent no.1 has specifically stated that she has gone through her affidavit and has fully understood the contents thereof and has no objection if the subject Criminal Case is quashed. She also states that she is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

4. The counsel for the applicants state that the demand draft of

Rs.5 lakh is already deposited with the Family Court. However, this demand draft is expired. The applicants undertake to deposit fresh Demand Draft with the Family Court within a period of seven days from today. Statement is accepted. The learned counsel for the applicants after taking instructions from the applicants makes a statement that he has no objection if the amount is allowed to be withdrawn by respondent no. 1, once the decree of divorce is passed. Statement is accepted.

5. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana**, **AIR 2003 SC 1386**, we are of the view that quashing of the criminal proceedings would be in the interest of respondent No.2. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed.

6. Accordingly the petition is allowed to the extent of quashing of R.C.C. No. 700280 pending on the file of Judicial magistrate, First Class, Khadki Cantonment at Pune arising out of registration of FIR

bearing CR No.71 of 2012 for the offence punishable under section 498A, 323, 504 read with 34 of Indian Penal Code.

7. The petition is, accordingly, made absolute in the above terms.

(V.L.ACHLIYA,J.)

(RANJIT MORE,J.)