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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2125 OF 2015
WITH
CRIMINAL APPLICATION NO.407 OF 2015

Shri. Suraj Kumar Sahoo	... Petitioner/ Applicant
Versus	
The State of Maharashtra and Ors.	... Respondents

WITH
CRIMINAL APPLICATION NO.408 OF 2015

Mrs. Shalini Gupta	... Applicant
Versus	
Shri. Suraj Kumar Sahoo	... Respondent

Mr. Madhav Vithalrao Chavan, for the Petitioner.
Mrs. U.V. Kejariwal, AGP, for the Respondent Nos.1 to 5.
Mr. Sandip Kulshreshtha, for Respondent No.8.
Mr. R.P. Kendre, P.S.I., Wakad Police Station, Pune City.

**CORAM : A.S. OKA &
V.L. ACHLIYA, JJ.**

DATE : 10th SEPTEMBER, 2015

PC.

. As the regular Bench taking up this Petition is not available, yesterday papers of the Petition were produced before this Court. This is a Petition seeking a Writ of Habeas Corpus filed by the Petitioner. The allegation in the Petition is that the Petitioner's wife Mrs. Shalini Gupta

– Respondent No.8 has been illegally, unauthorisedly and unlawfully detained by the Respondent Nos.6 and 7. Yesterday, the Respondent No.8 was produced before this Court. The matter was heard in-camera and the statements of the Petitioner and the Respondent No.8 have been recorded in the order passed yesterday. In view of the statements recorded in the said order, today the Petitioner has filed a criminal application by invoking Section 482 of the Code of Criminal Procedure, 1973. One of the statements in the application is that he will not challenge the prayer made by his wife in the Petition for divorce filed by her in the Family Court at Patna and will agree for passing a decree of divorce by mutual consent. He has stated in the application that he does not desire to press the proceedings of FIR registered at Wakad Police Station vide C.R. No.200 of 2015 dated 1st May, 2015. He has consented to quashing of the proceedings. The Respondent No.8 is present today through her learned Advocate. She has tendered a Criminal Application invoking the provisions of Section 482 of the Code of Criminal Procedure, 1973. She has stated in the said application that she is agreeable for giving divorce by mutual consent and she will not demand any compensation/ maintenance from the Petitioner. She has undertaken not to initiate any legal proceedings against the Petitioner. She has given the said assurance in view of the assurance given by the Petitioner not to prosecute the criminal proceedings.

2. We direct the Registry to register both the Applications as Criminal Applications for the purposes of record.

3. From what transpired yesterday in the Court, it appears to us that the Petitioner and the Respondent No.8 are husband and wife. The Respondent No.8 has already filed a Petition for divorce in the Family Court at Patna. The Petitioner who was present personally yesterday and even today has stated through his learned counsel that after hearing that his wife does not want to cohabit with him, he has no further grievance and he does not want to prosecute the criminal proceedings any further and that he is agreeable for grant of divorce by mutual consent. A copy of the certificate of marriage has been annexed to the Writ Petition. We have perused the copy of C.R. No.200 of 2015 annexed to the Writ Petition. We find that essentially the matrimonial dispute between the Petitioner and the said Respondent No.8 led lodging and registration of the said FIR.

4. Now the husband and wife have reconciled to the situation and have agreed to take divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Therefore, no purpose would be served by continuing the criminal proceedings and, therefore, this is a fit case to exercise power under Section 482 of the Criminal Procedure Code, 1973 for quashing of C.R. No.200 of 2015.

5. Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) We accept the statements and undertakings of the Petitioner as well as the Respondent No.8 in their respective applications marked as 'X' and 'Y' for identification. Even today, both the Petitioner and the Respondent No.8 are present in the Court and through their respective learned counsel they affirm the correctness of the contents of their respective applications as well as the statements made yesterday ;
- (ii) We, therefore, direct the Petitioner to appear before the Family Court at Patna in the matrimonial Petition filed by the Respondent No.8 and co-operate with the Respondent No.8 for converting the pending Petition into one under Section 13B of the Hindu Marriage Act, 1955;
- iii) In exercise of powers under Section 482 of the Code of Criminal Procedure, 1973, we quash and set aside the FIR registered vide C.R. No.200 of 2015 at Wakad Police Station, Pune;

(iv) In view of what is observed above, there is no reason to issue a Writ of Habeas Corpus. The Petition and Criminal Applications are disposed of on above terms.

(VL. ACHLIYA, J)

(A.S. OKA, J)

Certified to be true and correct copy of the original signed
Judgment/order.