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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 391 OF 2015

Nalin Shah and Ors.

.. Applicants

V/s.

The State of Maharashtra

..Respondent.

Mr. Mr.S.B. Shelar for the applicants.

Mr. P.M. Shah for respondent no. 2.

Mrs. S.V. Sonavane, A.P.P. For the State.

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

DATED : 9th DECEMBER, 2015

P.C. :-

Heard learned counsel for the applicants, respondent no. 2 and the learned A.P.P. for the State.

2. This application is filed under section 482 of Code of Criminal Procedure to quash and set aside the F.I.R. bearing C.R. No. 71 of 2015 registered with Juhu Police Station at the instance of respondent no. 2 for the offences punishable under section 498A, 406 read with 34 of Indian Penal Code. The applicant no. 5 and respondent no. 2 are the husband and wife. The rest of the applicants are the family members of the applicant no.5. The matrimonial dispute between the parties gave rise to the filing of the F.I.R. in question.

3. Pending the investigation, parties have settled their dispute amicably and have approached this Court for quashing of the said F.I.R. by consent. Respondent no.2 has accordingly filed an affidavit dated 9th December, 2015. In this affidavit, she has stated that the dispute between herself and the applicants are settled amicably and in pursuance of the said settlement, she has already received the sum of Rs.18,37,00,000/- by demand draft towards full and final settlement of all pending cases between them. She has given no objection to quash the said F.I.R. Respondent no.2 is personally present in the Court. She confirms the contents of the affidavit. On a specific query, she states that she has no objection to quash the said F.I.R. She has also stated that she has given her consent by free will and without any coercion. She has also stated that in terms of the settlement, she has filed divorce petition bearing No. 2328 of 2015 before the Family Court at Bandra for divorce by mutual consent. She states that the next date of the hearing is 23rd December, 2015. She also submits that on this date, the applicant no.5 who is at present residing at HongKong should remain present. The learned counsel for the applicants having taken instructions from his client, undertakes that the applicant no. 5 shall remain present before the Family Court on 23rd December, 2015 and subsequently as and when required and especially at the time of decree of divorce. Undertaking is accepted.

4. 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. The petition is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

5. In view of the above circumstances, we direct Juhu Police Station to recall the Look out notice issued against applicant no. 5.

(V.L.ACHLIYA,J.)

(RANJIT MORE,J.)