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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 786 OF 2014

1. Rupert Gracias
2. Mrs. Elizabeth Gracias
versus
1. Amrita Gracias
2. The State of Maharashtra

....Applicants

....Respondents

Mr. Dharam Jumanani a/w. Mr. Suraj Iyyer and Mr. Prajit Manjrekar i/b.
Ganesh and Co., advocates for the applicants.
Mr. M. S. Singh, advocate for respondent No.1.
Mr. K. V. Saste, APP for the State.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 23rd February, 2015.

P.C.:

This application is filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of C.R. No.96 of 2014 registered with Malvani Police Station. The said C.R. is filed against the applicants, at the instance of respondent No.1, for the offences punishable under Sections 498A, 377, 292A, 504, 506, 354 read with Section 34 of the Indian Penal Code, 1860 (for short "the IPC").

2. Applicant No.1 is the husband of respondent No.1 and applicant No.2 is the mother-in-law. Applicant No.1 and respondent No.1 got married in the year 2003. Marital dispute between the parties led to filing of civil as well as criminal cases including the C.R. which is the subject

matter of the present application. During the pendency of the investigation, the parties settled their dispute amicably and, in pursuance of an understanding arrived at between them, filed the instant application for quashing the proceedings of the said C.R. by consent. Respondent No.1 has filed an affidavit dated 23rd February, 2015. In paragraph 9, she has given no objection for quashing the proceedings of the said C.R.. Respondent No.1 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has fully understood the contents thereof and has no objection, if the proceedings arising out of C.R.No.96 of 2014 are quashed and set-aside. She also stated that she is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

3. We have perused the C.R.NO.96 of 2014. Though the FIR is registered under Section 377 of the IPC, the allegations in the FIR are vague in nature and are not supported by medical report. In that view of the matter, we are *prima facie* satisfied that no offence is made out under Section 377 of the IPC. Otherwise also, we are satisfied that quashing of the proceedings would be in the interest of respondent No.1 inasmuch as, the parties have decided to separate and entered into terms of settlement before the Family Court.

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 considered view that there is no impediment in quashing the criminal proceedings. 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 interest of justice, the criminal proceedings are required to be quashed. The application is, accordingly, made absolute in terms of prayer clause (a) subject to payment of cost of Rs.25,000/- by the applicants to “**Shanti Avedna Sadan**” an institution that takes care of the advanced and terminally ill cancer patients. The applicants shall pay the said cost and produce the receipt thereof on the file of this Court within a period of two weeks from today.

5. Subject to above, the criminal application stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)