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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4541 OF 2015

Nizar Najmuddin Punjabi

..Petitioner.

V/s.

State of Maharashtra and Anr.

..Respondents.

Mr.V.S.Jain for the petitioner.

Mr.K.V.Saste, APP for respondent-State.

Msr.Kavita N. Punjani – respondent No.2 in person.

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

DATED : 7TH DECEMBER, 2015

P.C. :-

Not on board. Mentioned for urgent production.

Production granted in view of urgency.

1. Heard learned counsel for the petitioner, learned A.P.P. for the State and respondent No.2 in person. This petition is filed under Article 226 of the Constitution of India and under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the subject F.I.R. bearing No.18/12 registered with the Borivali police station, Mumbai at the instance of respondent No.2 against the petitioner for the offences punishable under Sections 498A, 406, 313 read with Section 34 of the Indian Penal Code.

2. Respondent No.2 and petitioner are husband and wife.

Matrimonial dispute between the parties gave rise to the filing of several criminal cases as well as civil matter. The subject matter of the present petition is one of them.

3. Pending investigation, the petitioner and respondent No.2 have amicably settled their dispute and in pursuance of an understanding arrived at between them, have approached this Court for quashing of the subject F.I.R. by consent. Respondent No.2 has filed an affidavit on 7th December, 2015. In paragraph 3, she has stated that she has no objection if the subject F.I.R. is quashed. Respondent No.2 is personally present before the Court. On being questioned, respondent No.2 has specifically stated that she has gone through her affidavit and has fully understood the contents thereof and has stated that she has settled the dispute with the petitioner and in the light of their settlement, she does not wish to proceed with the subject F.I.R. She also states that she wants to withdraw the allegations made against the petitioner and has no objection if the subject F.I.R. is quashed. She also states that she is giving no objection for quashing the subject F.I.R. out of free will and without there being any pressure or coercion.

4. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There

is no element of public law involved in the offence. The offence alleged cannot be said to have any impact on the society. 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 proceedings of the subject F.I.R. would be in the interest of respondent No.2. Besides that, no purpose would be served by keeping the subject F.I.R. pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject F.I.R. is required to be quashed.

5. Accordingly, the petition is made absolute in terms of prayer clause (b) and is disposed of as such.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)