

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

WRIT PETITION NO.132 OF 2016

Mr. Ashish A. Bhatt & Ors. ...Petitioners
V/s.
Mrs. Namrata Ashish Bhatt & Anr.Respondents.

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Mr. Swapnil Ambure with Mr. Mikhail Dey i/by Dinesh Tiwari & Associates,
, Advocates for the Petitioners.
Ms. Shubhangi S. Nikam, Advocate for the Respondent No1.
Mrs. S.D.Shinde, APP for the State.

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**CORAM : RANJIT MORE &
A. K. MENON, JJ.**

DATE : 19TH JANUARY, 2016.

P.C.:

Heard learned counsel appearing for the respective Parties
and the learned APP for the State.

2 This Petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Code of Criminal Procedure, 1973 to quash and set aside the proceedings of the Sessions Case No.798 of 2013 pending on the file of 21st Sessions Court, Mumbai. The said case arises out of the registration of F.I.R. bearing C.R.No.1 of 2012 with Kanjurmarg Police Station at the instance of Respondent No.1 for the offences punishable under Sections 498(A), 313, 323, 504, 406

read with Section 34 of the Indian Penal Code, 1860.

3 The Petitioner and the Respondent No.1 got married on 29.12.2010. Rest of the Petitioners are family members of the Petitioner No.1. Matrimonial disputes between them gave rise to the filing of civil as well as criminal proceedings. The subject case is one of them.

4 During the pendency of the trial, parties decided to settle the disputes between them amicably and accordingly, Consent Terms dated 28.12.2015 came to be filed before Family Court, Bandra. Marriage between the Petitioner No.1 and the Respondent No.1 also came to be dissolved on 14.1.2016. In pursuance of an understanding arrived at between them, they have approached this Court for quashing the proceedings of the subject case.

5 Respondent No. 1 has filed affidavit affirmed on 15.1.2016 as well as a copy of the Consent Terms. In paragraph 5 of the Affidavit, she has given no objection to quash the proceedings of the subject Sessions Case. Respondent No.1 is personally present before this Court. On being questioned, she specifically stated that she has gone through the affidavit and has understood the contents thereof and she has no

objection if the subject Sessions Case is quashed and set-aside. She also stated that she is giving no objection for quashing the said Sessions Case out of free will and without there being any pressure or coercion.

6 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 FIR would be in the interest of Respondent No.1. 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 subject Sessions Case is required to be quashed. The petition is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

7 At this stage, it is pointed out that as per the settlement arrived at between the parties, the Petitioner No.1 has deposited an amount of Rs.1,50,000/- in the Family Court at Bandra. The parties agreed that the Respondent No.1 shall withdraw the said amount after quashment of the subject Sessions Case so also withdrawal of the

proceedings of the Case No.39/DV/2012 pending on the file of 53rd Metropolitan Magistrate at Mulund, Mumbai under the provisions of the Domestic Violence Act, 2005. The learned counsel for the Respondent No.1 on instructions makes a statement that the Respondent No.1 will withdraw the proceedings under the Domestic Violence Act, 2005. Statement accepted. In the circumstances, the Respondent No.1 is at liberty to apply to the Family Court at Bandra to withdraw the said amount of Rs.1,50,000/-. The Family Court, Bandra shall thereafter pay the said amount to the Respondent No.1 along with interest accrued thereon, if any.

(A. K. MENON, J.)

(RANJIT MORE, J.)