

CRIMINAL APPLICATION NO. 38 OF 2016

Dr. Dayanand Vishwanath Khanolkar and ors. ...Applicants

State of Maharashtra and anr. ..Respondents

Ms. Aruna Chowhan, advocate for the applicants.

Ms. Shilpa A. Joshi, advocate for respondent No.2.

CORAM : RANJIT MORE &

V. L. ACHLIYA, JJ.

DATE : 18th FEBRUARY, 2016.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The application is filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing the proceedings of the criminal case No. 548/PW/2013 arising out of registration of FIR No.18 of 2013 registered with Vikhroli Park Site Police Station, at the instance of respondent No.2, for the offences punishable under Sections 498A, 323, 504 read with Section 34 of the Indian Penal Code, 1860.

3. The applicant No.1 and respondent No.2 are husband and wife. Rest of the applicants are the family members of applicant No.1.

Marital discord between the parties gave rise to filing of civil as well criminal cases and the subject matter of the present application is one of them. Pending trial, the parties have settled their dispute amicably, and in pursuance of an understanding arrived at between them, have approached this Court for quashing and setting-aside the the proceedings of the subject criminal case by consent. Respondent No.2 has filed an affidavit dated 19th January, 2016. In paragraph 4, she has stated that the disputes between herself and the applicant has been resolved and, therefore, she desires to put an end to the criminal proceedings initiated by her against the applicants. Respondent No.2 is personally present before the 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 proceedings of the subject criminal case are quashed and set-aside. She also stated that she is giving no objection for quashing the proceedings of the said criminal case 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. 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 proceedings of the criminal case 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 proceedings of the subject criminal case are required to be quashed and set-aside. Thus, the proceedings of the criminal case No. 548/PW/2013 pending on the file of learned Metropolitan Magistrate, 31st Court at Vikhroli, Mumbai arising out of FIR No.18 of 2013 registered with Vikhroli Park Site Police Station are quashed and set-aside. The criminal application stands disposed of accordingly.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]