

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.68 OF 2016

...

Anish and anr.

...Applicants

v/s.

State of Maharashtra & ors.

...Respondents

...

Mr.Satishkumar R. Soni for the Applicants.

Mrs.M.H.Mhatre, APP for the State.

Ms.Pooja Shrevenkumar Agarwal for Respondent No.2.

...

CORAM : A.S.OKA &**A.A. SAYED, JJ.****DATED : 16 JUNE 2016****P.C.:**

(Not on Board. Taken on Board)

Heard the learned Counsel appearing for the Applicants, the learned APP for the State and the learned Counsel appearing for the second Respondent.

2. Rule. Respondents waive service. Forthwith taken up for final hearing.

3. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is for quashing the First

Information Report registered for the offences punishable under Section 498-A, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code. The first Applicant is the husband of the second Respondent. There is a reply filed by the second Respondent. In the reply, it is stated that the matrimonial dispute between the first Applicant and the second Respondent has been settled. A reliance is placed on the Memorandum of Understanding dated 14 June 2016, by and between the first Applicant and the second Respondent, in which the terms and conditions of the settlement have been incorporated. The receipts signed by the second Respondent acknowledging payment of money and the delivery of articles are annexed. The receipts signed by the first Applicant recording receipt of possession of the documents in relation to the car are also annexed.

4. Learned Counsel for the Applicant and the learned Counsel for the second Respondent, on instructions, state that today the learned Court, 4th Civil Judge, Senior Division, Thane has passed a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Learned Counsel appearing for the Applicant and the learned Counsel for the second Respondent state that now there is a complete settlement in the matrimonial dispute and all pending proceedings, except the present Application have been disposed of.

5. Perusal of the First Information Report shows that the matrimonial dispute between the first Applicant and the second Respondent led to the filing of the First Information Report. Now, as the matrimonial dispute is completely settled, no purpose would be served by continuing the criminal proceedings. On the contrary, the continuation of the criminal proceedings would cause prejudice to both the parties. Hence, this is a case where the law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab & ors.**¹ will be applicable. Accordingly, the Applicant must succeed and we pass the following order.

ORDER

Rule is made absolute in terms of prayer clause (a), which reads as under:-

“(a) quash and set aside the First Information Report i.e. Crime No.276/2015 dated 7-10-2015 for the offence under Section 498-A, 406, 323, 504, 506 & 34 of the I.P.C. Registered with the Police Station: Nerul, District: Thane i.e. Annexure-A.”

All concerned to act on the authenticated copy of this judgment and order.

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303