

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

CRIMINAL WRIT PETITION NO. 483 OF 2015

Mr. Anshool Amarnath Mishra & Others. ... Petitioner.

V/s.

Mrs. Pinky Anshool Mishra & Anr. ... Respondents.

Ms. Gulestan Dubash i/by Kurup Shivaji & Co. for the
Petitioners.

Mr. Nagesh Gad, Advocate for Respondent No.1.

Mr. K. V. Saste, APP for the State.

**CORAM : NARESH H. PATIL AND
A. M. BADAR, JJ.**

DATE : 03rd MAY, 2016.

P.C. :

1 By this petition, Petitioners-Accused in Criminal Case No. 813/PW/2013 pending on the file of learned Metropolitan Magistrate, Borivali Court, Borivali, Mumbai, are praying for quashing and setting aside the said case initiated at the instance of Respondent No.1/ informant.

2 Heard learned counsel appearing for Petitioners as well as Respondent No.1. They unanimously submitted that the FIR came to be lodged by Respondent No.1 in respect of the matrimonial dispute between her and her family members. Petitioners are husband and in-laws of Respondent No.1/

informant. Learned counsel appearing for both the parties submitted that now the matrimonial dispute between the parties is amicably settled and as such Respondent No.1/ informant does not want to continue with the criminal proceedings against the Petitioners. Respondent No.1 / informant Mrs. Pinky Anshool Mishra has placed on record an affidavit. Perusal of the said affidavit shows that during pendency of the proceedings before Family Court, the parties have chosen to settle the dispute by filing consent terms. Affidavit of Respondent No.1 further shows that the learned Family Court was pleased to dissolve the marriage of Respondent No.1 with Petitioner No.1 by a decree of divorce. It is stated in the affidavit that as per the consent terms, Respondent No.1 wants to withdraw the allegations made against Petitioners as well as the complaint lodged by her.

3 Respondent No. 1/informant Mrs. Pinky Anshool Mishra is present before the court. She is duly identified by her learned counsel. Upon being asked, she stated that she does not want to pursue criminal case No.813 / PW/2012 initiated at her instance against the present petitioners who are her husband and in-laws.

4 We have also heard the learned Additional Public Prosecutor appearing for the State-Respondent No.2.

5 We have perused the chargesheet filed against the present Petitioners in pursuant to FIR bearing No. 444 of 2012 for the offences punishable under sections 498A, 406 read with section 34 of the Indian Penal Code. The Criminal Case, as seen from the chargesheet, has arisen out of matrimonial dispute between Respondent No.1 /informant and her husband / Petitioner No.1. Now their marriage is stated to have been dissolved by decree of divorce and the parties have amicably settled all the issues. As such chances of conviction in the said criminal case are too remote. No public law element is involved in the present case. Therefore, in order to prevent abuse of process of the court, the petition needs to be allowed and, therefore, the order :

i) Writ Petition is allowed.

ii) Criminal Case bearing No. 813/PW/2013 against the Petitioners pending on the file of learned Metropolitan Magistrate, Borivali Court, Borivali, Mumbai is quashed and set aside.

(A. M. BADAR, J.)

(NARESH H.PATIL,J.)

.....