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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 616 OF 2016

Dinesh V.Bhalerao and anr.

..Petitioners

V/s.

The State of Maharashtra and anr.

..Respondents

Ms. Tejasweeta Bhosale for the petitioners.

Ms. Sonal D. Bhalerao respondent no. 2 in person.

Mrs. S.V. Sonavane, APP for respondent-State.

CORAM : RANJIT MORE AND

V.L.ACHLIYA, JJ.

DATED : FEBRUARY 17, 2016

P.C. :-

1. At the outset, the learned counsel for the petitioners seeks leave to amend the prayer cause (b) so as to give number of the criminal case. Leave is granted. The necessary amendment shall be carried out forthwith.

2. Heard learned counsel for the Petitioners, learned counsel for respondent No. 2 and learned A.P.P. for the State.

3. This Writ 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 for quashing the criminal proceeding bearing CC NO. 319 of 2013 pending in the Court of Chief Judicial Magistrate, Thane registered on the basis of F.I.R. bearing No. I-82 of 2013 with the Rabodi police station at the instance of respondent No.2 against the Petitioners for the offences punishable under Sections 498A, 406 read with Section

34 of the Indian Penal Code.

4. Petitioner No.1 and respondent No.2 are husband and wife and rest of the Petitioners are family members of Petitioner No.1. Matrimonial disputes between the parties gave rise to the filing of several criminal cases as well as civil matters. The subject matter of the present petition is one of them.

5. Pending investigation, the parties have amicably settled their dispute and accordingly filed consent terms for divorce before the Family Court, Thane in Petition No. A-92 of 2013. A copy of the consent terms is annexed to the petition at Page 59. In clause 10 of the said consent terms, the respondent has undertaken to take necessary steps to quash the subject FIR out of which the said criminal case arises.

6. In pursuance of an understanding arrived at between them, have approached this Court for quashing of the subject criminal case pending in the Court of Chief Judicial Magistrate, Thane by consent. Respondent No.2 has filed an affidavit on 17th February, 2016. In paragraph 9, she has stated that she has no objection if the subject criminal case is quashed. Respondent No.2 is personally present before the Court. She is identified by her Advocate. On being questioned, respondent No.2 has specifically stated that she has gone through the affidavit and has

fully understood the contents thereof and has no objection if the subject criminal proceedings are quashed. She also states that she is giving no objection for quashing the subject criminal case out of free will and without there being any pressure or coercion.

7. 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 criminal case would be in the interest of respondent No.2. Besides that, 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 criminal case / subject F.I.R. is required to be quashed.

8. Accordingly, the criminal Writ Petition is made absolute in terms of prayer clause (b) and is disposed of as such.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)