

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL WRIT PETITION NO.623 OF 2014

Mr.Vaibhav Vijay Poddar and anr.	...	...Petitioners
v/s.		
State of Maharashtra & Anr.		...Respondents
	...	

Mr.Kushal Mor for the Petitioners.
 Mr.Vishal Kanade i/b Mr.Sanjaykumar R.Upadhyay for the Respondent No.2.
 Dr.F.R.Shaikh, APP for the Respondent No.1.

...
CORAM : A.S.OKA &
A.A. SAYED, JJ.
DATED : 19 OCTOBER 2016

P.C.:

Rule. Learned Counsel appearing for the second Respondent waives service. Learned APP waives service for the first Respondent. Forthwith taken up for final disposal.

2. The prayer in this Petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing the criminal proceedings for the offences punishable under section 498-A, 406, 323 read with section 34 of the Indian Penal Code, based on the First Information Report registered at the instance of the second Respondent. The second Respondent was the wife of the first Petitioner.

3. The prayer for quashing is based on the settlement of matrimonial dispute between the first Petitioner and the second Respondent. The consent terms were filed on record in Joint Petition No.F-2085 of 2013 filed by the first Petitioner and the second Respondent before the Family Court at Bandra, Mumbai. A decree was passed on 30 December 2014 by the learned Judge of the Family Court, Mumbai of dissolving the marriage between the first Petitioner and the second Respondent. Even the consent terms were made a part of the decree. Under the consent terms, the second Respondent agreed give consent for quashing the criminal proceedings subject matter of this Petition. There is an Affidavit filed by the second Respondent on 23 April 2015 recording her no objection for quashing the proceedings. There is an additional Affidavit filed by the second Respondent on 17 October 2016. In the said Affidavit, she has stated that she has filed a complaint dated 30 August 2014 before the Commissioner of Police, Mumbai and Malad Police Station. She has undertaken not to pursue the said complaint.

4. Perusal of the consent terms filed before the Family Court and the decree of the Family Court shows that the matrimonial dispute between the first Petitioner and the second Respondent has been completely settled. It is not in dispute that on the basis of the complaint dated 30 August 2014 filed by the second Respondent to the Commissioner of Police and the

Malad Police Station, First Information Report has not been registered. Undertaking of the second Respondent not to pursue the said complaint is accepted.

5. Now, there is a complete settlement of the matrimonial dispute. Therefore, the continuation of criminal proceedings will cause undue hardship to the Petitioners and the second Respondent. Hence, in view of the law laid by the Apex Court in the case of **Gian Singh v/s. State of Punjab and anr.**¹, this is a fit case to exercise the power under section 482 of CrPC.

6. Accordingly, we pass the following order:

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

(a) That this Hon'ble Court be pleased to quash and set aside the C.R.No.94 of 2013 of Dindoshi Police Station, Mumbai, under Sec. 498-A, 406, 323 r/w Sec.34 of the Indian Penal Code (subsequently transferred to Kurar Village Police Station) and the charge sheet filed vide CC No.3205/PW/13 pending on the file of the Ld.Metropolitan Magistrate's 67th Court, Borivali on such terms and conditions as this Hon'ble Court deems fit and proper;

All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303