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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL WRIT PETITION NO.710 OF 2016

Alok Nair & Ors. ...Petitioners
vs.
The State of Maharashtra
and others ...Respondents

Mr.Ratnesh M. Dube for the Petitioners
Ms S.V.Sonawane, APP for the respondent No.1
Ms Kinnari Hingol for respondent No.2

CORAM : A.S.OKA, &
R.D.DHANUKA, JJ.
DATE : SEPTEMBER 8, 2016

P.C.:

. Not on board. Taken on board.

1 Heard the learned counsel for the petitioner and the learned counsel for the second respondent. Rule. The learned APP waives service for the first respondent. The learned counsel for the second respondent waives service. Forthwith taken up for final disposal.

2 The prayer is for quashing the FIR on the basis of the complaint filed at the instance of the second respondent for the offence punishable under sections 498-A read with section 34 of the Indian Penal Code. The first petitioner and the second respondent are the husband and wife. The prayer for quashing is made on the basis of the settlement between the parties. An affidavit has been filed by the second

respondent-wife to which a copy of compromise deed dated 28th July 2016 executed by and between the first petitioner and the second respondent has been annexed.

3 A petition for divorce by mutual consent has been filed on 4th August 2016 by the first petitioner and the second respondent in the Family Court, South East, Saket, New Delhi. The learned counsel for the second respondent on instructions of the second respondent who is personally present states that all terms and conditions incorporated in the compromise deed have been complied with. In the affidavit, the second respondent has recorded her no objection for quashing the proceedings. The first petitioner has handed over a cheque in the sum of Rs.8,00,000/- to the Advocate for the second respondent who in turn has handed over the cheque to the second respondent who is personally present in the Court.

4 The learned counsel for the petitioners on instructions of the first petitioner who is personally present in the Court and the learned counsel for the second respondent on instructions of the second respondent who is personally present in the Court state that the said parties will not withdraw their consent recorded for passing a decree of divorce by mutual consent. We accept the said statements as undertakings of the first petitioner and the second respondent. As the matrimonial dispute has been settled, continuation of criminal

proceedings for the offence under section 498-A of the Indian penal Code will cause undue harassment to the first petitioner and the second respondent. Therefore, in view of the law laid down by the Apex Court in the case of Gian Singh versus State of Punjab and another¹, this is a fit case to exercise power under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Code.

5 Hence, we dispose of the petition by passing the following order:

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

“(a) This Hon'ble Court by exercising powers under section 482 of Cr.P.C read with Article 226 of the Constitution of India be pleased to quash and set aside the FIR bearing CR No.408/2014 registered with Bandra Police Station for offence under sections 498-A read with section 34 of the Indian Penal Code, 1860 on 13.8.2014 qua the petitioners.”

(II) Parties to act upon an authenticated copy of this order.

(R.D.DHANUKA,J.)

(A.S.OKA,J.)