

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 224 OF 2016

Mr. Prasad Mohan Shinde and Others. .. Applicants
Vs
The State of Maharashtra and Another. .. Respondents
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Shri Osman A. Chishty i/b Ashoka Law Firm for the Applicants.
Dr.F.R. Shaikh, APP for the Respondent No.1.
Shri U.V. Singh for the Respondent No.2.
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CORAM : A.S. OKA & A.A. SAYED, JJ
DATED : 23RD SEPTEMBER 2016

P.C.

1. Rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

2. The first Applicant and the second Respondent are husband and wife. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) is for quashing the First Information Report registered at the instance of the second Respondent for the offence punishable under Sections 498(A), 406, 504, 503 read with 34 of the Indian Penal Code.

3. In Petition No.A-1932 of 2015 filed by the second Respondent against the first Applicant before the Family Court at Bandra, Mumbai, consent terms were filed on 15th December 2015 before the Marriage Counsellor. The consent terms record a complete settlement of the matrimonial dispute. In fact, the learned counsel appearing for the parties state that now the matter is kept before the Family Court on 5th October 2016 for passing a decree of divorce. Both the first Applicant and the second Respondent who are personally present in the Court through their respective counsel undertake not to withdraw the consent recorded in the consent terms for taking divorce by mutual consent. There is an affidavit filed by the second Respondent confirming the settlement.

4. In view of the settlement of the matrimonial dispute, continuation of the criminal proceedings will cause undue hardship to the first Applicant and the second Respondent. Hence, this is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure, 1973 for quashing the FIR. Accordingly, we pass the following order:

ORDER :

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

“(a) That this Hon'ble Court be pleased to call for the records and proceedings of the Criminal Case No.328 of 2013 under section 498(a), 406, 504, 503, r/w 34 of Indian Penal Code pending before the 67th Metropolitan Magistrate Court, Borivali, Mumbai in C.R. No.233 of 2013 registered with the Respondent No.1 and after considering the legality and veracity thereof, be pleased to quash and set aside the same.”

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

(A.A. SAYED, J)

(A.S. OKA, J)