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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.920 OF 2016

Nasir Yakub Mukadam and Ors.

..Petitioners.

V/s.

The State of Maharashtra and Anr.

..Respondents.

Mr.A.Q.Usmani for the petitioners.

Mrs.S.D. Shinde, APP for the respondent-State.

Mrs.Gaikwad for respondent No.2.

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

DATED : 11TH APRIL, 2016

P.C. :-

1. By this petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the petitioners / accused are praying for quashing and setting aside the F.I.R. bearing C.R. No.I-293/15 registered with Rabodi police station, Thane for offences punishable under section 498A read with 34 of the

Indian penal Code, 1973 at the instance of Mrs.Shirin Mukadam on the basis of a compromise arrived at between the parties.

2. Learned counsel appearing for petitioners / accused as well as learned counsel appearing for respondent No.2 Mrs.Shirin unanimously submitted that the parties have settled the matrimonial dispute between them and now informant / respondent No.2 Mrs.Shirin is residing with her husband / petitioner. In support of their contention, both learned counsel have drawn our attention to the affidavit / consent terms placed on record by respondent No.2 / informant Mrs.Shirin.

3. We have also heard learned APP appearing for the State.

4. Crime No.I-293/2015 for offence punishable under section 498A read with 34 of the Indian Penal Code was registered on the F.I.R. lodged by respondent No.2 Mrs.Shirin. Petitioner No.1 / accused is her husband. From the affidavit filed by respondent No.2 / informant Mrs.Shirin, it is clear that

now parties have resolved the matrimonial dispute and started residing peacefully and started residing peacefully. In her affidavit, respondent No.2 Mrs.Shirin has clearly stated that the F.I.R. in question lodged by her be quashed. Respondent No.2 Shirin is present in the Court along with other accused persons, including her husband-petitioner No.1 Nasir. We have enquired the matter from both of them and in particular with respondent No.2 Mrs.Shirin. She has stated that she does not want to continue the prosecution initiated at her instance against accused persons i.e. present petitioners. She has stated that now she is residing with her husband / petitioner No.1 Nasir.

5. The dispute between the parties is clearly matrimonial dispute and they have resolved it amicably. Now, the couple is residing jointly and continuing the matrimonial ties. In such situation, continuation of prosecution against the husband and his relatives would certainly be abuse of process of the Court. The petition, therefore, deserves to be allowed and hence the order:-

- (i) Petition is allowed;
- (ii) F.I.R. bearing C.R. No.I-293/15 registered with Rabodi police station, Thane for offences punishable under section 498A read with 34 of the Indian penal Code, 1973 at the instance of respondent No.2 Mrs.Shirin Mukadam as well as subsequent proceedings are quashed and set aside.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)