

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.986 OF 2016

Fazal Afzal Shaikh and Ors. ..Petitioners.

V/s.

The State of Maharashtra and Anr. ..Respondent.

Mr.P.D.Borkar for the petitioners.

Mr.J.P. Yagnik, APP for the respondent-State.

Mr.Yogesh A. Shendge for respondent No.2.

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

DATED : 18TH APRIL, 2016

P.C. :-

1. By this petition under Articles 226 and 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, petitioners / accused in Crime No.13/2016 for offences punishable under section 498A, 315 read with 34 of the Indian Penal Code, 1860 registered with D.N.Nagar Police Station, Mumbai at the instance of respondent No.2 / informant Smt.Taslim Fazal Shaikh are

praying for quashing and setting aside the said F.I.R.

2. Heard the learned counsel appearing for the petitioners as well as for respondent No.2 / informant Smt.Taslim. Perused the impugned F.I.R. Both the learned counsel unanimously argued that now the matrimonial dispute between petitioner No.1 Fazal and his wife, respondent No.2 Smt.Taslim is settled and both are intending to reside together. The learned counsel further argued that the couple is also blessed with a child, aged about 2 years and they wish to continue the matrimonial ties. Hence, according to the learned counsel appearing for petitioners / accused and respondent No.2 / informant, the proceedings initiated at the instance of respondent No.2 may kindly be quashed.

3. We have also perused the affidavit placed on record by respondent No.2 / informant Smt.Taslim. It is stated in the said affidavit that the matrimonial dispute is resolved and, therefore, the informant is desirous of closing the prosecution initiated at her instance. Respondent No.2 / informant Smt. Taslim is present in person. She is duly identified by her learned counsel. Upon being asked, she has stated that out of

her free will, she has decided to reside with her husband and she does not wish to prosecute the F.I.R. lodged by her.

4. We have also heard the learned APP for the respondent-State.

5. The dispute leading to the registration of the F.I.R. is a matrimonial dispute. No public law element is involved. We have perused the case diary produced by the learned APP. It is the case of petitioner No.1 that he had taken respondent No.2 / informant to the hospital. It is seen that her pregnancy was required to be terminated because of some medical reasons. As parties have amicably settled the matrimonial dispute, continuation of the prosecution of husband and his relatives would certainly amount to abuse of process of the Court and for securing the ends of justice, said prosecution is required to be quashed and set aside. Hence the order.

(i) The petition is allowed;

(ii) The impugned F.I.R. bearing Crime No.13/2016 registered with the D.N. Nagar police station, Mumbai on 5th

January, 2016 for offences punishable under section 498A, 315 read with 34 of the Indian Penal Code against petitioners / accused at the instance of respondent No.2 / informant Smt.Taslim Fazal Shaikh and the consequent proceedings are quashed and set aside.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)