

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 1275 OF 2016**

Mr.Divesh Suresh Kataria & Others. ... Petitioners.  
(Org. Accused)

V/s.

The State of Maharashtra & Anr. ... Respondents.

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Mr. Kenny Thakkar, Advocate for the Petitioners.  
Mrs. S. D. Shinde, APP for the State.  
Mr. J. S. Chandanani, Advocate for Respondent No.2.

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

**DATE : 02<sup>nd</sup> MAY, 2016.**

**P.C. :**

1 By this petition, Petitioners-Accused, husband and in-laws of Respondent No.2 - Informant, are praying for quashing the FIR bearing Crime No. I-176 of 2015 for offences under sections 498A, 323, 504, 506, 406, 313 r/w. 34 of the Indian Penal Code registered against Petitioners at the instance of Respondent No.2 with Ulhasnagar Police Station at Ulhasnagar Dist. Thane.

2 Heard learned counsel appearing for Petitioners as well as Respondent No.2. They submitted that the crime in question came to be registered at the instance of Respondent

No.2 because of matrimonial dispute and now the parties have settled the matrimonial dispute. It is further submitted that Petitioners and Respondent No.2 have executed consent terms on 29<sup>th</sup> August, 2015, wherein Respondent No.2 has categorically agreed to withdraw all her allegations against Petitioner No.1 and file a petition under section 13(b) of the Hindu Marriage Act, 1955 for seeking divorce by mutual consent after completion of statutory period. Hence, according to the learned counsel for Petitioners and Respondent No.2, the FIR in question needs to be quashed.

3 Respondent No.2 Mrs. Vansika is present in the court in-person and she is duly identified by her learned counsel. Upon being asked, she submitted that she does not want to prosecute the FIR lodged by her because of settlement of the matrimonial dispute.

4 My attention is drawn by the learned counsel appearing for the parties to the affidavit of Respondent No.2/ Informant placed on record. It is stated in the affidavit that in view of the settlement of dispute between the parties and in view of averments in para-4 of writ petition so also consent terms dated 29<sup>th</sup> August, 2015 subject to the acceptance of undertaking given by Petitioner No.1, Respondent No. 2 has no objection for quashing the FIR. We find no hurdle in accepting the settlement made by Petitioners in para-4 of the

Petition and trust that the parties will abide by the terms and conditions.

6 We have also heard the learned Additional Public Prosecutor.

7 As the matrimonial dispute which gave rise to lodging of the FIR is mutually and amicably settled by the parties, chances of conviction in such case of offence of private nature upon filing of the chargesheet are too remote. No public law element is involved in the present case. Therefore, in order to prevent abuse of process of law, the petition needs to be allowed and, therefore, the order :

i) Writ Petition is allowed.

ii) FIR being Crime No.I-176 of 2015 for the offences punishable under sections 498A,323,504,506,406, 313 r/w. 34 of the Indian Penal Code, registered against Petitioners at the instance of Respondent No.2 is hereby quashed and set aside.

(A. M. BADAR, J.)

(NARESH H.PATIL,J.)

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