

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.348 OF 2016

Mr.K.A.J.Merchant for the applicants
Ms Seema Sarmaik for the respondent No.1
Mr.J.P.Yagnik, APP for respondent No.2

. Not on board. Taken on board.

1 Rule. Rule is made returnable forthwith. The respondent waives service. This is an application under section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal proceedings by consent of both the parties. The FIR was lodged at the instance of the first respondent for the offences punishable under sections 498-A, 406 read with section 34 of the Indian Penal Code. The said FIR was lodged with Mira Road Police Station on 21st August 2008 vide C.R.No.I 506 of 2008. On completing investigation the chargesheet was filed and the criminal proceedings are pending before the competent Court vide C.C.No.2100 of 2008.

2 Brief allegations in the FIR are in respect of the domestic clashes between the parties. It is stated that the marriage of the first respondent was solemnised with the applicant No.1 on 21st May 2005. The applicant Nos.2 and 3 are the father-in-law and mother-in-law of the first respondent. It is alleged that shortly after the marriage, the applicants/accused started harassing the first respondent. They demanded money and allegedly abused and assaulted her. A daughter has born out of the wedlock on 23rd August 2006. The FIR further refers to acts allegedly amounting to mental cruelty and criminal breach of trust.

3 The parties have arrived at amicable settlement. It is pointed out by the applicants and the first respondent that the applicant No.1 had filed a Petition for divorce before the Family Court viz. M.J.Petition No.A 152 of 2009. The said petition was dismissed. Hence, the applicant No.1 preferred an Appeal before this Court. The applicant No.1 had also preferred another appeal against the order of maintenance. The parties filed consent terms in the said appeal. In the said consent terms, in clause 13, it has been categorically mentioned that both the parties have settled the dispute amicably and the complainant is not interested in pursuing the criminal proceedings against the applicant-accused. The consent terms also refer to various clauses regarding maintenance.

4 In accordance with of the said consent terms,

order dated 15th October 2015 has been passed in the above referred Family Court Appeal Nos.87 and 90 of 2015 which is on record at Exhibit-B to this application. As per the said order, decree of divorce has been passed in M.J.Petition No.A-152 of 2009.

5 We have perused the application and the documents on record. We have gone through the consent terms and the decree passed by this Court vide order dated 16th October 2015. It is pointed out by both the parties that the dispute is amicably settled and the complainant is not interested in pursuing the criminal proceedings against the applicant-accused.

6 It is submitted at the instance of the complainant that she has no objection for quashing the subject proceedings which are arising out of C.R.NO.I506 of 2008. In view of the aforesaid circumstances and considering the fact that the parties have settled the dispute, we are inclined to exercise inherent power under section 482 of the Code of Criminal Procedure,1973. Reliance is placed on the decision of the Apex Court in the case of Gian Singh versus State of Punjab and another¹ wherein it has been observed that in the disputes which are of private nature, the High Court can exercise inherent power under section 482 of the Code of Criminal Procedure,1973, in the event of such disputes being amicably settled.

1(2012) 10 SCC page 303

7 In view of this position, we incline to allow this application and hence, pass the following order:

- (i) Rule is made absolute;
- (ii) Impugned criminal proceedings in C.C.NO.2100 of 2008 arising out of C.R.No.I 506 of 2008 are quashed and set aside;
- (iii) Parties to act upon an authenticated copy of this order.

(P.D.NAIK,J.)

(A.S.OKA,J.)