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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO.1347 OF 2016**

Kandarp D. Jain

..Petitioner.

V/s.

State of Maharashtra and Ors.

..Respondents.

Mr. O.D. Goswami for the petitioner.

Mr.K.V.Saste, APP for the respondent-State.

Mr.K.H. Rajani for respondent No.2.

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

**DATED : 7TH APRIL, 2016**

**P.C. :-**

1. By this petition under Article 227 of the Constitution of India read with section 482 of Code of Criminal Procedure, 1973, petitioner / husband / accused in crime bearing F.I.R. No.MECR No.9/2014 for offence punishable under sections 498A, 406 read with 34 of Indian Penal Code, 1860 registered with Kharghar police station, Navi Mumbai at the instance of respondent No.2 is praying for quashing and setting aside the F.I.R.

2. Heard learned counsel for the petitioner as well as

respondent No.2 / wife. Perused the copy of the F.I.R. as well as the complaint filed in the Court of learned J.M.F.C., Panvel wherein the order of investigation came to be passed. We have also perused the consent terms placed on record before the learned Civil Judge, S.D. Panvel in Marriage Petition No. 95/2013 as well the affidavit of respondent No.2 / informant. According to learned counsel appearing for the petitioner as well as respondent No.2, they have settled their matrimonial dispute amicably because of efforts of mediators. Accordingly, the consent terms came to be lodged in Marriage Petition No.95/2013. Both learned counsel unanimously submit that the petitioner has agreed to pay sum of Rs.3,00,000/- to respondent No.3 by pay order or demand draft of a nationalized bank by way of lumpsum amount in favour of the minor child Prisha Jain, who is with respondent No.2 / informant. According to both learned counsel, payment will be made by pay order or demand draft in favour of Prisha Jain simultaneously at the time of grant of decree of divorce by mutual consent.

3. Dispute which resulted in lodging F.I.R. is matrimonial dispute between the petitioner / husband and respondent No.2 / wife. It appears that the said dispute has

been amicably settled before the mediator on 16<sup>th</sup> March, 2016 when the parties were litigating in divorce petition No.95/201e. Accordingly, consent terms are also placed before the learned Civil Judge, S.D. Panvel. Respondent No.2 has placed on record an affidavit stating that she is not desirous of prosecuting the petitioner as well as accused. Matrimonial dispute between the parties has been amicably settled and the petitioner is going to pay an amount of Rs.3,00,000/- for maintenance of the child Prisha Jain. In the light of the settlement between the parties, continuation of the criminal proceedings would be abuse of process of the Court and chances of conviction are too remote. Hence the following order.

- (i) The petition is allowed;
- (ii) F.I.R. No.MECR No.9/2014 for offence punishable under sections 498A, 406 read with 34 of Indian Penal Code, 1860 registered with Kharghar police station, Navi Mumbai at the instance of respondent No.2 Deepti Jain and subsequent proceedings resulting therefrom are quashed and set aside.

**(A.M . BADAR, J.)**

**(NARESH H.PATIL, J.)**