IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1408 OF 2014

1. Niraj Mahadeorao Ghorpade,
2. Mahadeorao Ramchandra Ghorpade,
3. Smt.Vinita Mahadeorao Ghorpade,
All R/o.D-1/503, Shivsagar Co-op.Hsg.Soc;
Manik Bag, Sinhagad Road, Dist.Pune. Petitioners

versus

1. The State of Maharashtra,
2. Sou.Dipti Niraj Ghorpade,
R/o.D-13, Om Shraddha CHS, Jayraj Nagar,
Borivali (W), Mumbai. Respondents

Mr.M.J.Bandgar i/by Mr.N.P.Dalvi for Petitioners.
Mrs.Gangeeta D. Shinde, APP, for State.
Mr.Avinash Patil for Respondent no.2.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 8 August 2016

PC :

1. Rule. Rule is made returnable forthwith. Learned APP waives service for State. Mr.Avinash Patil waives service for Respondent no.2.

2. The Petitioners have challenged the criminal proceedings initiated against them vide CC No.3601/SS/2013 by invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India. The Petitioners were impleaded as accused in the said proceedings which were initiated at the instance of Respondent no.2.

3. The first informant/Respondent no.2 is the wife of Petitioner no.1. Petitioner nos.2 and 3 are the parents of Petitioner no.1.

4. Respondent no.2 lodged a first information report (`FIR') against Petitioners on 3 September 2013 with MHBC Police Station vide CR No.283 of 2013 for offences under Sections 498A, 406, 323, 504, 506 read with Section 34 of Indian Penal Code (`IPC') and under Sections 3 and 4 of Dowry Prohibition Act. In the FIR it was alleged that marriage of the complainant/Respondent no.2 was solemnized with Petitioner no.1 on 20 July 2008. The parents of the complainant had gifted several ornaments to the complainant in the said marriage. However, the accused had ill-treated the complainant. The accused nos.2 and 3 kept on taunting her and also abused her. The accused also demanded money from the complainant to be brought by her from her father for purchasing flat. Out of the wedlock, a daughter was born on 11 May 2010. However, the ill-treatment continued. Hence, the impugned FIR was registered with the aforesaid police station. On completing the investigation, a charge sheet was filed and presently the proceedings are pending vide CC No.3601/SS/2013 in the Court of Metropolitan Magistrate, 68th Court, Borivali, Mumbai.

5. Respondent no.2 had also initiated the proceedings under Protection of Women from Domestic Violence Act, 2005 in the Court of Metropolitan Magistrate, at Borivali, Mumbai. The said complaint has been annexed to the petition.

6. The Petitioners and the Respondent no.2 have submitted that the dispute between both the parties has been settled. The Respondent no.2 has filed an affidavit before this Court. In the said affidavit she has stated that she is the complainant in the proceedings referred to in this petition and she has no objection for quashing the same. The said affidavit dated 8 August 2016 is taken on record and marked "X" for identification. Learned advocate for the Petitioners and Respondent no.2 submitted that since the dispute between the parties has been amicably settled, the proceedings which are subject matter of the petition, may be quashed by consent of both the parties. The Petitioners and Respondent no.2 have also tendered a joint application before this Court which is signed by all of them. The said joint application dated 8 August 2016 refers to the consent terms executed by the parties before Family Court. The said consent terms were annexed to the said application. It was pointed out that the criminal proceedings are presently numbered as CC No.3601/SS/2013. In the consent terms annexed to the aforesaid application, it is stated that the daughter Kavya, aged about six years, is presently residing with Petitioner no.1 and permanent custody of the said daughter shall remain with Petitioner no.1. Respondent no.2 shall avail access of the daughter as per terms mentioned therein. It is also stated that Petitioner no.1 shall pay Rs.30 lakh as lumpsum permanent alimony to Respondent no.2 towards her claim of maintenance. Out of said amount, Petitioner no.1 shall deposit Rs.10 lakh in the Family Court within a week from the date of signing the said consent terms and that remaining amount is to be deposited within a month from the said date. The consent terms were executed on 27 May 2016. It was further

mentioned that Respondent no.2 will be allowed to withdraw the aforesaid amount after she withdraws the cases filed by her under Section 498A of IPC and Domestic Violence Act. It is also mentioned that after the amount is deposited in the Family Court, Respondent no.2 shall start process of withdrawing her complaint under Domestic Violence Act and that she will also file an affidavit in the present writ petition. It was further agreed that in lieu of ornaments and articles of Respondent no.2, Petitioner no.1 shall deposit additional amount of Rs.45,000/- in the Family Court within one month. The said consent terms were filed for seeking consent divorce. The said application along with consent terms is taken on record and marked as "X-2 collectively" for identification.

7. We have perused the aforesaid documents and heard respective advocates as well as learned APP for the State. The parties have amicably settled the dispute. The complainant is protected by executing the consent terms. Petitioner no.1 and Respondent no.2 have resorted to divorce by mutual consent. The complainant has consented for quashing the criminal proceedings. She has been provided with lumpsum maintenance as stipulated in the consent terms. The dispute is on account of differences between the parties. The parties have amicably settled the dispute. Taking into consideration the aforesaid factual aspects, we find that the parties have put an end to the differences and have decided to separate themselves. The dispute is of private nature and hence the prayer for quashing the proceedings can be entertained. Reliance can be placed on the decision of Apex Court in case of **Gian Singh**

Vs. State of Punjab and another[1], wherein the Apex Court has observed that powers of quashing can be exercised by the High Court in the event the dispute is amicably settled by the parties in relation to the dispute which is of private nature.

8. In the circumstances, we pass following order :

(a) Rule is made absolute;

(b) Criminal Proceedings in CC No.3601/SS/2013 pending before the Metropolitan Magistrate, 68th Court, at Borivali, Mumbai, which had arisen out of CR No.283 of 2013 registered with MHBC Police Station for offences under Sections 498A, 406, 323, 504, 506 read with Section 34 of Indian Penal Code and under Sections 3 and 4 of Dowry Prohibition Act, are quashed and set aside;

(c) All concerned to act on an authenticated copy of this order issued by registry of this court.

(PRAKASH D. NAIK, J.) (NARESH H. PATIL, J.)

MST

1 (2012)10-SCC-303