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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1658 OF 2015

Venkatesh Hari Sawalkar and Anr.

..Petitioners.

V/s.

Mrs.Reshma Venkatesh Sawalkar and Anr.

..Respondents.

Mr.M.Moses for the petitioners.

Mr.P.B.Ranavre for respondent No.1.

Mrs.U.V.Kejriwal, APP for respondent-State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 13TH JANUARY, 2016

P.C. :-

1. Heard learned counsel for the petitioners, learned counsel for respondent No.1 and learned A.P.P. for the State.

2. This petition is filed under Article 226 of the Constitution of India and under the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal proceeding bearing CC No.2208/PW/2010 pending in the Court of 66th Metropolitan Magistrate, Andheri, Mumbai registered on the basis of F.I.R. bearing C.R. No.463/2009 with the Powai police station, Mumbai at the instance of respondent No.1 against the petitioners for the offences punishable under Sections 498A, 506,

406 read with Section 34 of the Indian Penal Code.

3. Petitioner No.1 and respondent No.1 are husband and wife and rest of the respondents are the family members of petitioner No.1. Matrimonial disputes between the parties gave rise to the filing of several criminal cases as well as civil matters. The subject matter of the present petition is one of them.

4. Pending investigation, the parties have amicably settled their dispute and in pursuance of an understanding arrived at between them, they have approached this Court for quashing of the subject criminal case pending in the Court of 66th Metropolitan Magistrate, Andheri, Mumbai by consent. Respondent No.1 has filed an affidavit dated 13th January, 2016. In paragraph 2, she has stated that she has no objection if the proceedings of the subject criminal case is quashed. Respondent No.1 is personally present before the Court. She is identified by her Advocate. On a query, respondent No.1 has specifically stated that she has gone through the affidavit and has fully understood the contents thereof and has no objection if the subject criminal proceedings are quashed. She also states that she is giving no objection for quashing the subject criminal case out of free will and without there being any pressure or coercion.

5. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are personal in nature. There is no element of public law involved in the offence. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the proceedings of the criminal case would be in the interest of respondent No.1. Besides that, no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject criminal case / subject F.I.R. is required to be quashed.

6. At this stage, learned counsel for respondent No.1 states that the marriage between petitioner No.1 and respondent No.1 is already dissolved and an amount of Rs.3,75,000/- is deposited by petitioner No.1 in the Family Court, Bandra, Mumbai to be paid to respondent no.1 towards the full and final satisfaction of her claim. Learned counsel for the petitioners submit that he has no objection if respondent No.1 withdraws the said amount. In the circumstances, we direct respondent No.1 to apply to the Family Court, Bandra, Mumbai for withdrawal of the said amount. The

Family Court shall thereafter return the said amount to respondent No.1 along with interest accrued, if any. Counsel for both the parties also state that they are withdrawing all the allegations against each other. Statement is accepted.

7. Accordingly, the petition is made absolute in terms of prayer clause (b) and is disposed of as such.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)