

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.442 OF 2016

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Shri Bharatbhushan Shah and ors. ...Applicants
v/s.
State of Maharashtra & ors. ...Respondents

WITH
CRIMINAL APPLICATION NO.942 OF 2016

...

Pranay Bharatbhushan Shah ...Applicant
v/s.
State of Maharashtra & ors. ...Respondents

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Mr.Ranjeet H. Patil for the Applicants.
Ms.Heena Suvarnakar for the Respondent No.2.
Ms.M.H.Mhatre, APP for the Respondent No.1.

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**CORAM : A.S.OKA &
A.A. SAYED, JJ.**
DATED : 1 SEPTEMBER 2016

P.C.:
(Not on Board. Taken on Board.)

Rule. Learned APP waives service of the first Respondent. Learned Counsel appearing for the second Respondent waives service. Heard finally by consent of the parties.

2. These two Applications under section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") have been filed for quashing of the same First Information Report and proceedings based on the said First Information Report for the offences punishable under section 498-A, 406, 323, 504 read with section 34 of the Indian Penal Code.

3. Criminal Application No.942 of 2016 is filed by the husband of the second Respondent, who is first informant. Criminal Application No.442 of 2016 has been filed by the father-in-law,mother-in-law and brother-in-law of the second Respondent.

4. There are Affidavits filed on record by the Applicant in Criminal Application No.942 of 2016 and the second Respondent in both the Applications. Both affidavits disclose that at the intervention of the elder members of the family and the learned Mediator Ms.Kirti Dabir, the husband and wife arrived at settlement and in fact consent terms were signed on 2 July 2015 before the learned Mediator. The Affidavit of the second Respondent states that from 9 July 2015, she is happily residing with her husband at the address mentioned in paragraph 2 of the said Affidavit. In paragraph 12, she has stated that as per the consent terms, her husband has undergone necessary test and a report has been submitted to her. She has stated that as she is residing happily with her husband, she has no objection for quashing the First Information Report. In the Affidavit of her husband, the same statements have been made.

5. On the earlier date, when we interviewed the husband and wife in the Chamber, both have stated that they are happily residing together.

6. We accept the statements made both the Affidavits, which show that that the matrimonial dispute between the Applicant in Criminal Application No.942 of 2016 and the second Respondent (wife) has been completely settled and there is a reconciliation. Therefore, continuation of the criminal proceedings which arise out of the matrimonial dispute will cause undue hardship to both of them.

7. In view of the law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab and anr.**¹ this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973.

8. Accordingly, the Applications must succeed. Hence, we pass the following order:

ORDER

The First Information Report being CR No.182/2014 registered with Tardeo Police Station, Mumbai as well as proceedings in Criminal Case No.1117/PW/2016 pending before the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai are hereby quashed and set aside.

All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303