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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.471 OF 2015

Shreyas Shivnarayan Jha and Ors. ..Applicants.

V/s.

State of Maharashtra and Anr. ..Respondents.

Mr.Makrand P.Panchakshari for the applicants.

Ms.M.H. Mhatre, APP for respondent No.1.

**CORAM : A.S.OKA AND
A.A.SAYED, JJ.**

DATED : 21ST OCTOBER, 2016

P.C. :-

1. On 9th February, 2016 notice for final disposal was issued to the second respondent. Office remark shows that the notice has been duly served.

2. Prayer in this application under section 482 of the Code of Criminal Procedure, 1973 is for quashing the first information report registered at the instance of the second respondent for the offence punishable under section 498A and 406 read with 34 of the Indian Penal Code. The first applicant and the second respondent were husband and wife. The

second and third applicants are the parents of the first applicant. The first information report was registered on 11th July, 2011 at the instance of the second respondent.

3. Our attention is invited to the consent terms filed on 8th January, 2015 in Marriage Petition No.373 of 2012 filed by the first applicant against the second respondent in the Court of Civil Judge, S.D. Thane. The consent terms record the settlement of all the disputes between the first applicant and the second respondent. Clause 5 of the consent terms reads thus:-

"5. The Respondent also further undertakes to co-operate by filing applications, affidavits, declarations either of her own and / or of her parents either in the Trial Court or in the Hon'ble High Court if required so as to finally dispose off and / or close the proceedings i.e. Criminal Case bearing R.C.C. No.1631/2012 which is under section 498(A) and 406 r/w. Section 34 of I.P.C. and pending before the J.M.F.C., Thane."

4. The consent terms provide that the parties have agreed to take a divorce by mutual consent. Accordingly, by judgment and order dated 12th March, 2015, the learned Civil Judge, S.D. Thane has passed a decree of divorce under section 13B of the Hindu Marriage Act, 1955. A copy of the Marriage Petition No.373 of 2012 in which the said decree was

passed is annexed to the present application. This petition again refers to the settlement between the parties. In fact, in paragraph 12 of the said petition, an undertaking of the second respondent has been recorded that she will co-operate with the first applicant for quashing of the criminal proceeding which is the subject matter of the present application.

5. Thus, the proceedings in Marriage Petition No.373/2012 in which the decree of divorce is passed clearly shows that there is a complete settlement of the matrimonial dispute and in fact the second respondent agreed to give consent for quashing of the first information report subject matter in this application. Therefore, continuation of the proceedings subject matter of this application will be nothing but an abuse of process of law. Accordingly, this is a fit case to exercise of the powers under section 482 of the Code of Criminal Procedure, 1973. Hence we pass the following order:-

- i) Rule is made absolute in terms of prayer clause (a) which reads thus :-

“a) The entire proceedings in F.I.R. at I-298 of 2011

registered at Mira Bhayandar Police Station and Criminal Case being RCC No.1631/2012 pending before the J.M.F.C. Thane by the Respondent No.2 against the Applicants, may kindly be quashed and set aside.”

- ii) All concerned to act on the authenticated copy of this order.

(A.A.SAYED, J.)

(A.S.OKA J.)