

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.628 OF 2016

Mr. Arun Sheshdhar Mishra & Anr. Applicants

V/s

State of Maharashtra & Anr. Respondents

Mr. Ashok Kumar S. Mishra for the Applicants.

Dr. F.R. Shaikh, APP for the Respondent No.1/State.

Mr. Tushar N. Khandare for Respondent No.2.

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

DATED : 22 JUNE 2016

ORDER:

1 Not on board. Taken on board.

2 Rule. The learned APP waives service for the first Respondent. The learned Counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

3 The challenge in this Application under section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC.") is to the First Information Report registered at the instance of the second Respondent for the

offences punishable under sections 498-A, 406 read with section 34 of the Indian Penal Code. Our attention is invited to the Consent Terms dated 2 May 2016 between the First Applicant Husband and the Second Respondent Wife filed in the Court of the Metropolitan Magistrate, Mumbai in proceedings under the Protection of Women from Domestic Violence Act, 2005.

4 We have perused the said Consent Terms at Exhibit-C to the Application. The Consent Terms have been signed by the parties to the proceedings before the learned Metropolitan Magistrate including the present Applicants and the second Respondent. All the terms and conditions agreed by and between the husband and wife have been incorporated including a condition of payment of a sum of Rs.10,45,000/- by the First Applicant to the Second Respondent in full and final settlement of her claim for maintenance as well as the claim for the maintenance of the minor child. The said amount is payable in terms of the installments provided in clause 8 of the Consent Terms. Till today, a total sum of Rs.2,95,000/- has been paid. Clause (c) of the paragraph 8 of the Consent Terms records that a sum of Rs.2,50,000/- will be payable by the first Applicant to the second Respondent at the time of quashing the criminal proceedings. Accordingly, today a demand draft in the sum of Rs.2,50,000/- has been handed over by the Advocate for the Applicants to the Advocate for the second Respondent who is in turn has

handed over the same to the second Respondent who is present in the Court. The photocopy of the demand draft is taken on record and marked 'X-1' for identification.

5 The learned Counsel appearing for the Applicants and the second Respondent state that in terms of the settlement, the first Applicant and the second Respondent have filed a Petition under section 13-B of the Hindu Marriage Act, 1955 before the Family Court at Bandra, Mumbai bearing Petition No.F-1009 of 2016. They state on instructions that the said Petition is fixed on 7 November 2016. The learned Counsel appearing for the first Applicant and the second Respondent state on instructions that on compliance with the terms and conditions in the Consent Terms, both of them will not withdraw the respective consent recorded in the aforesaid Petition seeking divorce by mutual consent.

6 Thus, it appears to us that parties have agreed to completely settle their matrimonial dispute and several steps have been taken on the basis of the settlement.

7 Perusal of the First Information Report shows that it is the matrimonial dispute which led to the registration of the First Information Report. Now there is a settlement in the matrimonial dispute. Therefore,

in view of the law laid down by the Apex Court in the case of **Gian Singh vs. State of Punjab and Another**¹ this is a fit case to exercise the power under section 482 of CrPC.

8 Accordingly, we pass the following order:

i) Rule is made absolute in terms of prayer clauses (a) and (b) which read thus:

“(a) quash the above said FIR bearing No.381/2013, P.S. Dadar, Mumbai registered on 28.11.2013 u/s 498-A, 406 r.w. 34 of IPC as well as all subsequent proceedings emanating therefrom;

(b) quash the criminal case no.717 of 2014 pending in the Court of Ld. Metropolitan Magistrate, Dadar, Mumbai in Chargesheet bearing no.717/PW/2014.”

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

(A.A. SAYED, J.)

(A.S. OKA, J.)

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¹(2012) 10 SCC 303