

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.651 OF 2016

... Mr.Manishkumar Ratanshi Patel & Anr. v/s. The State of Maharashtra & ors.	...Applicants ...Respondents
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Ms.Vaishali Joshi i/b Mr.Anil D.Joshi for the Applicants.
 Ms.M.H.Mhatre, APP for Respondent No.1.
 Ms.Sandhya Arvind Mailegir for Respondent No.2.

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CORAM : A.S.OKA &

A.A. SAYED, JJ.

DATED : 10 AUGUST 2016

P.C.:

On the last date the second Respondent was personally present in the Court.

2. Rule. Learned APP waives service for the first Respondent. Learned Counsel appearing for the second Respondent waives service for the second Respondent. Forthwith taken up for final hearing.

3. The first Applicant and the second Respondent are husband and wife. Other Applicants are members of the family of the first Applicant. A prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing the First Information Report registered at the instance of the second Respondent-wife for the

offences punishable under sections 498-A, 323, 504 read with section 34 of the Indian Penal Code.

4. The First Information Report was registered on 22 August 2015. On 3 June 2016, the first Applicant and the second Respondent have filed a Petition under section 13(B) of the Hindu Marriage Act, 1955 (for short “the said Act”) for seeking a decree of divorce by mutual consent. Various terms and conditions of the settlement have been incorporated in the said Petition, a copy of which is annexed as Exhibit “C” to the Petition. In paragraph 8 of the said Petition, the second Respondent has recorded her consent to withdraw the allegations made in the First Information Report and to cooperate with the Applicants for getting the First Information Report quashed.

5. Learned Counsel appearing for the Applicants tenders across the bar a receipt in the sum of Rs.7,50,000/- evidencing that the first Applicant has deposited the sum of Rs.7,50,000/- with the Family Court at Thane in terms of clause (5) of the aforesaid Petition. There is a reply filed by the second Respondent reiterating the statements in the Petition filed under section 13(B) of the said Act.

6. Perusal of the First Information Report shows that the matrimonial discord between the first Applicant and the second Respondent led to the registration of the First Information Report. Now, there is a complete settlement of the matrimonial dispute. Therefore, the continuation of the criminal proceedings will cause undue harassment to both husband and wife. Hence, in the light of the law laid down by the Apex Court in **Gian Singh v/s. State of Punjab**¹, this is a fit case to exercise powers under section 482 of CrPC. Accordingly, the Application must succeed and we pass the following order:

ORDER

Rule is made absolute in terms of prayer clause (a), which reads as under:

“(a) for writ or an order to quash and set aside the FIR No.I-382/2015, registered with Naupada Police Station, Thane for the offences punishable u/s 498(A), 504 and 144 of IPC as amicably settled between the Applicants and Respondent No.2.”

All concerned to act on an authenticate copy of this order duly authenticated by the Registry.

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303