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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.643 OF 2014**

Mr. Nitin Balkrishna Bongane and Ors.	... Applicants
Vs.	
State of Maharashtra and Anr.	... Respondents

Mr. Viral Rathod i/by Mr. Harshad E. Palwe for the Applicants.
Dr. F.R. Shaikh, APP for the Respondent No.1.

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

DATE : 29th AUGUST, 2016

PC.

1 Rule. The second Respondent appearing in person waives service. The learned APP waives service for the first Respondent. On the earlier date, the second Respondent appearing in person was identified by the Investigating Officer. The prayer in this application is for quashing charge sheet filed on the basis of FIR for the offences punishable under Section 498-A and 506(2) read with Section 34 of the Indian Penal Code. The second Respondent appearing in person has filed a reply in writing. Today, she is present in the Court. In the said reply she has stated that on 23rd November, 2010 her marriage with the first Applicant was dissolved by a decree of divorce passed by the Family

Court. She stated that thereafter she has remarried and she has a daughter.

2 She has stated in the affidavit that as she got an opportunity to start a new life, she does not want to prosecute the criminal matter any further. On the last date, she expressed an apprehension that if she gives consent for quashing, the present Applicants who are arraigned as accused in the charge sheet will take legal proceedings against her only with a view to harass her. Her contention is that after giving consent, she should not be driven to face any proceedings in the Court of Law as she wants to live peaceful life.

3 The learned counsel appearing for the Applicants has tendered separate affidavits-cum-undertakings of all the Applicants. All the Applicants except Applicant No.4 are personally present in the Court. In paragraph 3 of their respective affidavits, they have stated that they will not file any legal proceedings in respect of the matrimonial proceedings against the second Respondent and that they have never threatened her or will not threaten her or her family members in future.

4 The undertakings given by all the Applicants clearly mention that the matrimonial dispute between the first Applicant and

the second Respondent is forever concluded and none of the Applicants will take any proceedings against the second Respondent in connection with the said matrimonial dispute or in connection with the proceedings filed in relation to the matrimonial dispute.

5 The learned APP has explained the statements made in the affidavits-cum-undertakings to the second Respondent. The second Respondent appearing in person states that she is satisfied with the undertakings.

6 Perusal of the FIR on the basis of of which charge sheet has been filed shows that matrimonial dispute between the first Applicant and the second Respondent was the reason for registration of the FIR. Now there is a decree of divorce passed on 23rd November, 2010 and the marriage between the first Applicant and the second Respondent has been dissolved by decree of divorce. Thereafter, the second Respondent has remarried and she is happily living married life.

7 The undertakings given by the Applicants deserve to be accepted. These undertakings, as explained above sufficiently protect the Applicants.

8 As the entire matrimonial dispute has been settled and as the Applicants have undertaken not to initiate any proceedings against the second Respondent in connection with the matrimonial dispute or matters filed in relation to the matrimonial dispute, this is a fit case where power under Section 482 of the Code of Criminal Procedure, 1973 will have to be exercised for quashing the proceedings in the light of the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab¹. Accordingly, we pass the following order :-

ORDER

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

“(A) This Hon'ble Court be pleased to quash case bearing no.888/PW/2006, charge-sheet and FIR dated 4/9/2006 bearing No.228/2006 registered at mahim Police Station.”

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

(A.A. SAYED, J)

(A.S. OKA, J)

¹ (2012) 10 SCC 303