

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.701 OF 2016

Mr. Gopal Sitaldas Gurhani ...Applicant/ Orig.
Accused

vs.

The State of Maharashtra & Anr. ...Respondents

...

Mr. Prashant Badole for the applicant.
Dr. F. R. Shaikh , APP for respondent No.1.
Mr. Prakash Mahadik for respondent No.2.

...

**CORAM : A.S. OKA & A.A. SAYED, JJ.
DATE : 8th JULY, 2016.**

P.C. :

. Not on board. Taken on board.

2. Rule. Learned AGP waives service for the first respondent. The Learned counsel for the second respondent waives service.

3. This application is for quashing the first information report registered for the offence punishable under section 498(A) of IPC. The applicant is the husband and the second respondent is the wife. Second respondent is the first informant. After investigation, chargesheet has been filed for the offence punishable under section 498(A), 323 and 506(II) of IPC.

4. In Petition No.A-91 of 2011 filed by the applicant against second respondent in the Family Court at Mumbai, consent

terms were filed. A copy of the Consent Terms is annexed as Exh.B to the Application. According to the learned counsel appearing for the applicant and the learned counsel for the second respondent, the consent terms have been acted upon and in fact, a decree of divorce by mutual consent under section 13-B of the Hindu Marriage Act 1955 has been passed by the Family Court thereby dissolving marriage between the applicant and second respondent.

5. The applicant and second respondent are personally present in the Court. Second respondent has filed an affidavit recording her consent for quashing the proceeding of the criminal case. The learned counsel appearing for them state that there is a complete settlement of the matrimonial dispute.

6. Perusal of the First Information Report shows that the matrimonial dispute resulted in the registration of FIR. Now there is a complete settlement of matrimonial dispute. Hence, the continuation of criminal proceedings will cause undue harassment of the applicant and the second respondent. Therefore, it is a fit case to exercise power under section 482 of the Code of Criminal Procedure, 1973. Hence, the order.

ORDER

Rule is made absolute in terms of prayer clause
(b) which reads thus:

“(b) C.C. NO.614/PW/2011 pending in the Court of Ld. Metropolitan Magistrate, 17th Court, Borivali, Mumbai arising out of C.R. No.387/2010

registered by Kandivali Police Station, Mumbai, at the instance of Respondent No.2 against the Applicant herein, may be quashed and set aside and the applicant may be discharged/acquitted from the above mentioned case in the interest of justice.”

(A.A. SAYED, J.)

(A.S. OKA, J.)