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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2550 OF 2014

Mrs. Simple Pradeep Nimkar and Anr.

... Petitioners

Vs.

State of Maharashtra and Anr.

... Respondents

Mr. Manoj Shukla for the Petitioners.

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

Ms. Ketaki Datar for the Respondent No.2.

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

DATE : 5th OCTOBER, 2016

PC.

1. Heard the learned counsel appearing for the Petitioners, the learned counsel appearing for the second Respondent and the learned APP for the first Respondent. Rule. The Respondents waives service. Forthwith taken up for final disposal. Prayer in this Petition under Article 226 of the Constitution of India is for quashing the charge sheet filed for the offences punishable under Section 448 read with Section 34 of the Indian Penal Code. The prayer is made on the basis of settlement between the second Respondent who is the first informant and the present Petitioners. The case made out by the second Respondent is that she had rented a flat under an agreement executed by the owner Shri Pradeep Nimkar. She along with her husband and

other family members including her mother were residing in the said flat owned by the said Pradeep Nimkar. The allegation is that on 7th March, 2013 when her mother was alone in the flat, the Petitioners came to the said flat. There was an exchange of words between the second Respondent and the first Petitioner. The first Petitioner is the wife of the said Pradeep Nimkar. After some time, the second Respondent's husband came back from the work who in turn informed Shri Pradeep Nimkar. Even the said Pradeep Nimkar appeared on the scene. It is alleged that notwithstanding the intervention of the said Pradeep, the Petitioners were not willing to leave the flat and they were forcing the second Respondent and family members to leave the flat.

2. The learned counsel appearing for the Petitioners and the learned counsel appearing for the second Respondent state that essentially the incident occurred due to matrimonial dispute between the first Petitioner and her husband Pradeep. They state that both of them are present in the Court and in fact their matrimonial dispute has been settled.

3. Consent terms signed by the Petitioners and the second Respondent as well as their respective Advocates are placed on record and marked 'X-1' for identification. Consent terms record that second Respondent and her husband have vacated the said flat on 30th April, 2016 and the possession thereof was handed over to the first Petitioner

and the said Pradeep. It is stated that in terms of the order passed in the Family Court proceedings, the flat has been sold and the husband and wife have shared the sale proceeds.

4. We are satisfied that there is an overall settlement between the first Petitioner and the second Respondent as reflected from the consent terms. Moreover, the incident clearly arose out of the matrimonial dispute between the first Petitioner and her husband which appears to have been settled.

5. Hence, in view of the law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab¹, this is a fit case to quash the criminal proceedings. Accordingly, we pass the following order :-

ORDER

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

“(a) The Hon'ble Court be pleased to quash and set aside the FIR being FIR No.106 of 2013, registered U/s 448 and 34 of the Indian Penal Code, along with Charge Sheet filed in C.C. No.1820/PS/2014 before Ld. Metropolitan Magistrate 67th Court at Borivali, Mumbai.”

(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