

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2297 OF 2016

... Mushtakim A.Rehman Qureshi & ors. v/s. State of Maharashtra & Anr.	...Petitioners ...Respondents
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Mr.Satish K. Kumbhar for the Petitioners.
 Mr.K.V.Saste, APP for the Respondent No.1.
 Mr.Amol S.Suryawanshi for the Respondent No.2.

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

DATED : 19 OCTOBER 2016

P.C.:

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

2. The first Petitioner and the second Respondent were husband and wife. The prayer is for quashing the First Information Report registered at the instance of the second Respondent for the offence punishable under sections 498-A and 406 read with section 34 of the Indian Penal Code. The jurisdiction of this Court under section 482 of the Code of Criminal Procedure, 1973 is invoked.

3. In Petition No.E-21 of 2014 filed by the second Respondent against the first Petitioner for grant of maintenance before the Family Court at Mumbai, on 20 January 2016, the consent terms have been signed by the first Petitioner and the second Respondent before the Marriage Counsellor. In terms of the consent terms, the first Petitioner deposited a sum of Rs.2,00,000/- with the Family Court. The Petition pending before the Family Court was disposed of by the learned Judge of the Family Court by order dated 20 March 2016.

4. Today, the first Petitioner and the second Respondent have filed an Affidavit, to which a deed of divorce by mutual consent dated 18 February 2016 has been annexed. Thus, complete effect has been given to the consent terms dated 20 January 2016 filed before the Family Court. As provided in the consent terms, the second Respondent has no objection for quashing the offence. Second to fifth Petitioners are members of the family of the first Petitioner.

5. In view of settlement of the matrimonial dispute, now no purpose will be served by continuing the criminal proceeding, which is based on matrimonial dispute. Hence, in view of the law laid down by the Apex Court

in the case of Gian Singh v/s. State of Punjab and anr.¹ this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure, 1973.

6. Accordingly, we pass the following order:

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

(a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate writ, order or direction in the like nature, under the provision of Article 226 of the Constitution of India r/w section 482 of Criminal Procedure Code, thereby quashing the First Information Report being No.741 of 2015 dated 10/12/2015 lodged by the Respondent No.2 with the Dindoshi Police Station, Mumbai;

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

(A.A. SAYED, J.)

(A.S.OKA, J.)

¹ (2012) 10 SCC 303