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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5082 OF 2015

Himanshu Pramanik and Ors.

..Petitioners.

V/s.

State of Maharashtra and Anr.

..Respondents.

Mr.Dushyant Purekar for the petitioners.

Mrs.M.M.Deshmukh, APP for respondent-State.

Mr.S.V.Deolekar for respondent No.2.

**CORAM : NARESH H. PATIL AND
A.M. BADAR, JJ.**

DATED : 7TH MARCH, 2016

P.C. :-

1. Heard. Rule. Rule, made returnable forthwith. By consent of the parties, the petition is heard finally.
2. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, petitioners husband, mother-in-law and sister-in-law of respondent No.2 / informant Mrs.Shitanshu Himanshu Pramanik are praying for quashing of F.I.R. bearing C.R. No.65/2014 for an offence punishable under section 498A read with 34 of the Indian Penal Code registered at Bhoiwada

police station, Mumbai, so also the resultant charge-sheet and criminal case pending on the file of learned Metropolitan Magistrate, 29th Court, Dadar, Mumbai.

3. Facts in nutshell are thus:-

Respondent No.2 / informant Mrs.Shitanshu Himanshu Pramanik lodged a report with Bhoiwada police station, Mumbai with allegations that her husband, mother-in-law and sister-in-law subjected her to cruelty by harassing her with a view to coerce her and her relatives to meet their unlawful demands of money. Investigation ultimately resulted in filing of charge-sheet against the present petitioners in the Court of Metropolitan Magistrate, 29th Court, Dadar, Mumbai .

4. The petitioners / accused by filing this petition contended that prior to lodging report by respondent No.2 wife, petitioner No.1 husband had preferred a petition seeking divorce from respondent No.2 on the ground of cruelty. Subsequently, matrimonial dispute between the parties is settled and the parties have approached the learned Family Court, Bandra, Mumbai by filing a petition for divorce by mutual consent. Accordingly, consent terms were submitted

before the learned Family Court in M.J.Petition No.A-2625 of 2015 on settlement of the matrimonial dispute between them. As per the consent terms, respondent No.2 / informant had agreed for co-operating with the petitioners for quashing F.I.R. Petitioner No.1 agreed to pay permanent alimony of Rs.20 lacs to respondent No.2 / informant and accordingly she was allowed to withdraw part of the alimony of Rs.14 lacs.

5. Learned counsel appearing for the petitioners as well as respondent No.2 were unanimous in stating that now the matrimonial dispute between petitioner No.1 and respondent No.2 is amicably settled and they want to part away happily. Both the parties have jointly filed a purshis of consent terms so also affidavit of respondent No.2 / informant Mrs.Shitanshu Himanshu Pramanik on record. Purshis of consent terms is marked as 'X' for the purpose of identification. We have also heard the learned APP appearing for the State.

6. Respondent No.2 / informant Mrs.Shitanshu Himanshu Pramanik is present before the Court along with her cousin brother. Learned counsel appearing for her has submitted that even her mother also came to Mumbai but

because of fracture injury to her leg, she is not able to attend the Court. Respondent No.2 / informant Mrs.Shitanshu Himanshu Pramanik is duly identified by her learned counsel. Upon being inquired, she has stated that the matrimonial dispute with petitioner No.1 is settled amicably and she has withdrawn part of the permanent alimony. She stated that out of her free will, she has decided not to prosecute the prosecution initiated against present petitioners / accused on the basis of F.I.R. No.65/2014.

7. It is well settled that power under section 482 of the Code of Criminal Procedure can be invoked to quash criminal proceedings even in cases which are not compoundable when the parties have settled the matter between themselves. No doubt, such power is to be exercised sparingly and with caution. To secure the ends of justice and to prevent abuse of process of Court, such power needs to be exercised in appropriate cases. The Hon'ble Supreme Court in the case of **Narinder Singh and Others V/s. State of Punjab and Another** reported in **(2014) 6 Supreme Court Cases 466** has held that inherent powers can be used for quashing the prosecution of matrimonial relationship when the

parties have resolved their entire dispute amongst themselves. In the case in hand, as the case involves a matrimonial dispute which the parties thereto have amicably settled out of Court, continuation of prosecution would be futile. Continuation of the same will result in wastage of valuable time of the Courts. In the result petition needs to be allowed and, therefore, the following order.

O R D E R

- (i) Petition is allowed.
- (ii) The F.I.R. bearing C.R. No.65/2014 lodged by respondent No.2 / informant Shitanshu Himanshi Pramanik with Bhoiwada police station, Mumbai for offence punishable under section 498A read with 34 of the Indian Penal Code and the charge-sheet filed against the petitioners subsequent to investigation, so also the resultant criminal case pending against the petitioners on the file of Metropolitan Magistrate, 29th Court, Dadar, Mumbai is hereby quashed and set aside.

(A.M.BADAR, J.)

(NARESH H. PATIL, J.)