

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

CRIMINAL WRIT PETITION NO.2501 OF 2016

Jaideep Madhukar Bauskar & Ors. .. Petitioners

V/s.

Mrs.Shweta Jaideep Bauskar & Anr. .. Respondents

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Mr. Nikhil Chavan i/b. Mr. A.D. Sarwate, Advocate for the
Petitioners.
Mr. Hitesh Vyas, Advocate for Respondent No.1.
Mrs. S. D. Shinde, APP for Respondent No.2 – State.

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**CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.**

DATED : AUGUST 2, 2016.

JUDGMENT (Per PRAKASH D. NAIK, J.) :

Rule. Rule is made returnable forthwith.

2 Learned APP waives service for Respondent No. 2 –
State.

3 The petitioners have invoked the writ jurisdiction of
this Court under Article 226 of the Constitution of India and have

challenged the criminal proceedings bearing RCC No.39 of 2011, pending before the Court of Judicial Magistrate First Class, Kalyan.

4 Petitioners are accused in C.R.No.I-333 of 2010 registered with Dombivali Police Station for the offences punishable under Section 498 (A) and 406 read with Section 34 of the Indian Penal Code (for short "IPC"). The FIR was registered at the instance of first respondent on 22nd October, 2010. On completing investigation, charge-sheet has been filed in the concerned Court.

5 First respondent has alleged that she is a doctor by profession and her marriage was solemnized with petitioner no.1 on 8th July, 2008 in accordance with Hindu vedic rites. It is further stated that complainant's parents had gifted several ornaments during the said marriage to first respondent as well as her husband. However, accused started ill-treating her and kept on taunting her on various issues. They also demanded money from first respondent. She was harassed physically as well as mentally resulting into mental cruelty.

6 Petitioner No.1 is husband of first respondent and petitioner nos.2 and 3 are mother-in-law and sister-in-law of first respondent. Father-in-law was also impleaded as accused who had expired on 14th October, 2012. Death certificate has been annexed to the petition.

7 Learned advocate appearing for the respective parties submitted that there has been amicable settlement between both the parties. It is also pointed out that petitioner no.1 and first respondent had agreed to resolve their dispute by seeking divorce by mutual consent. The terms of settlement are incorporated in the petition. Copy of petition for divorce is also annexed to this petition. The said petition incorporates the terms of settlement regarding maintenance, Stridhan and withdrawal of prosecution. First respondent has also executed an affidavit which is annexed to the petition wherein it is stated that she has been staying separately from petitioners since 24th April, 2009. Parties have compromised the matter and that respondent no.1 does not wish to proceed with the criminal case and agree for quashing of the said proceedings. It is also submitted that although proceedings are pending since 2010, trial has not commenced. Father-in-law of first respondent namely Madhukar

Dagadu Bauskar who was also impleaded as an accused has expired during the pendency of the said proceedings.

8 We have perused the documents referred to hereinabove. The dispute is arising out of differences between first informant and her husband/in-laws. Parties have initiated divorce petition by mutual consent. Parties had arrived at amicable settlement. Consent Terms are drawn which includes protection of maintenance as well as return of Stridhan to first informant. The dispute therefore is of a private nature and since complainant is not interested in pursuing prosecution against accused, we are inclined to allow this petition. Hon'ble Apex Court in the case of ***Gian Singh V/s. State of Punjab & Anr.***¹ has observed that in case of disputes which are of private nature, the High Court in exercise of its powers can quash the proceedings in the event of amicable settlement between the parties. In view of the aforesaid circumstances, we find that this is a fit case to invoke the writ jurisdiction and to quash and set aside the impugned proceedings.

9 Hence, We pass the following order:

1(2012) 10 - SCC 303

:: ORDER ::

- (i) Rule is made absolute.
- (ii) Criminal Proceedings in C.C.No.39 of 2011, pending before the Judicial Magistrate First Class, Kalyan which are arising out of C.R.No. I-333 of 2010 for the offences punishable under Sections 498-A, 406 read with Section 34 of the Indian Penal Code are quashed and set aside.
- (iii) Parties to act upon an authenticated copy of this order.

(PRAKASH D. NAIK, J.)**(NARESH H. PATIL, J.)**