

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2584 OF 2016

Mr Sachin Arun Mhatre ... Petitioner
v/s
The State of Maharashtra and others ... Respondents

Mr Surel S. Shah i/b Mr Rohit N. Shetty for Petitioner.
Ms M.H. Mhatre, APP for Respondent No.1.
Mrs Varsha Palav for Respondent No.2.

CORAM: A.S. OKA AND A.A. SAYED JJ.

DATE : 3RD OCTOBER 2016.

P.C. :-

1. Not on board, taken on board. Heard learned counsel for the Petitioner. Rule. The learned counsel appearing for Respondent No.2 waives service. The learned APP waives service for Respondent No.1.
2. The prayer in this Petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure 1973 (for short, "Cr.P.C.") is for quashing the proceedings of criminal case for the offences punishable under sections 326,

506(ii), 452, 323, 504 of IPC.

3. The Petitioner and the Respondent No.2 are husband and wife. Our attention is invited to the consent terms filed in Petition No.A-3130 of 2013 before the Family Court, Bandra, Mumbai in a petition filed by the Respondent No.2. It records complete settlement of the matrimonial dispute and other disputes between the parties. It also records that parties have agreed to take divorce by mutual consent. The learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondent No.2, on instructions from Petitioner and Respondent No.2 who are present in Court, state that accordingly a petition for divorce by mutual consent has been filed and it is kept on 5th October 2016 before the Family Court. Both the Petitioner and the Respondent No.2 through their learned counsel undertake to the Court not to withdraw their consent for grant of divorce by mutual consent. We accept the said undertaking. The Respondent No.2 has filed an affidavit. She has disclosed that she was known as Rasika J. Kubde (maiden name) and after marriage, she is known as Rasika Sachin Mhatre. In view of the consent terms, she has recorded her consent for quashing the

proceedings of the criminal case.

4. Perusal of the FIR shows that it is the outcome of the matrimonial dispute. Now, there is a complete settlement of the matrimonial dispute. Therefore, continuation of criminal proceedings will cause undue hardship to the Petitioner and the Respondent No.2. Therefore, this is a fit case to exercise power under section 482 of Cr.P.C. for quashing the criminal proceedings.

5. Accordingly, rule is made absolute in terms of prayer clause (b) of the Petition which reads thus :-

“(b) that this Hon'ble Court may be pleased to quash and set aside the proceeding of Criminal Case bearing No.2122/PW/2013 pending before the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai filed by the Respondents.”

All concerned to act on the copy duly authenticated by the Sheristedar of this Court.

(A.A. SAYED J.)

(A.S. OKA J.)