

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2640 OF 2016

Shaleen Brijmohan Bhanot and another	Petitioners
versus	
The State of Maharashtra and another	Respondents

Mrs.Uma K. Wagle for Petitioners.
Mrs.S.V.Sonawane, APP, for State.
Mr.Akshay Gosavi for Respondent no.1.

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

DATE : 3 August 2016

PC :

1. Rule. Rule is made returnable forthwith. Learned APP waives service for State and Mr.Akshay Gosavi waives service for Respondent no.1.

2. The Petitioners have invoked writ jurisdiction of this Court under Article 226 of the Constitution of India as well as inherent power under Section 482 of Code of Criminal Procedure, 1973. The Petitioners have challenged first information report (`FIR') registered with Oshiwara Police Station vide CR No.192 of 2015. Offences were registered under Sections 498A, 406, 323, 504, 506 read with Section 34 of Indian Penal Code. The FIR was registered at the instance of Respondent no.2.

3. The Petitioners and the second Respondent have made a joint request that the proceedings which are the subject matter of this petition, be quashed and set aside, as the parties involved therein have arrived at an amicable settlement.

4. Petitioner no.1 is the husband of second Respondent. They were married on 9 December 2009. Petitioner no.2 is the mother of Petitioner no.1. On account of incompatible nature, difference of opinion and habits, there was a matrimonial dispute between second Respondent and the Petitioners. Due to bitterness, various proceedings were initiated by second Respondent against Petitioner. The impugned FIR was also registered as a consequence of the said differences on 27 April 2015.

5. Petitioner no.1 and second Respondent no.2 have applied for dissolution of their marriage by mutual consent before the competent Court on 25 July 2016. It is submitted by both the parties that the entire dispute between them is amicably settled and consent terms are arrived at between them on 25 July 2016. Petitioner no.1 and the second Respondent have agreed to dissolve their marriage by mutual consent and in the said consent terms, both parties had agreed to withdraw the allegations made against each other. It is further submitted that second Respondent had agreed to withdraw the criminal complaint lodged by her and accordingly an application was submitted to Oshiwara Police Station by second Respondent for withdrawal of impugned FIR. However, the concerned police station showed inability to do so on legal issues.

6. The second Respondent has also tendered an affidavit before this Court. In the said affidavit it is submitted that entire dispute between the Petitioners and the deponent is resolved and that proceedings for divorce by mutual consent are initiated before the concerned Court. It is also stated that she does not want to pursue criminal complaint against Petitioners in view of the settlement arrived at between them. It is also stated that she has withdrawn all the allegations by her against Petitioners before Family Court and has given an undertaking to withdraw the complaint. She has given her consent/no objection for quashing the impugned FIR lodged by her against Petitioners.

7. Taking into consideration aforesaid circumstances and more particularly in view of the fact that the dispute was of matrimonial nature, which has been resolved now, and parties have resorted to the dissolution of marriage by adopting appropriate proceedings, we find that this is a fit case where power of quashing can be exercised on account of settlement between the parties.

8. Hence, we pass following order :

(a) Rule is made absolute,

(b) FIR No.192 of 2015 registered with Oshiwara Police Station under Sections 498A, 406, 323, 504, 506 read with Section 34 of Indian Penal Code against Petitioners herein is quashed and set aside;

(c) All concerned to act on a copy of this order duly authenticated by registry of this Court.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST