

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2694 OF 2016

Nilesh Govind Sayankar

..... Petitioner

V/s

State of Maharashtra & Ors.

..... Respondents

Mr. Sham V. Walve for the Petitioner.

Dr. F.R. Shaikh, APP for the Respondent No.1/State.

Mr. Swapnil V. Walve for the Respondent No.2.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 16 AUGUST 2016

ORDER:

1 Rule. The learned APP waives service for the first Respondent. The learned Counsel appearing for the second Respondent waives service. The Petition is forthwith taken up for final disposal.

2 The prayer made in this Petition under Article 226 of the Constitution of India is for quashing the offences punishable under sections 498A, 323, 504, 506 of the Indian Penal Code as well as section 67 of the Information Technology Act. The first Applicant and the second Respondent were husband and wife. By judgment and decree dated 7

February 2015 passed by the learned Joint Civil Judge (Senior Division) at Malegaon in District Nashik in Hindu Marriage Petition No.321 of 2012, the marriage between the said parties has been already dissolved.

3 There is an Affidavit-in-Reply filed by the second Respondent who is the first Informant. It is pointed out that all the disputes between her and the first Applicant have been settled. The learned Counsel appearing for the Applicant tenders on record a deed of settlement to which the second Respondent and the second Applicant (father of the husband) are parties. He states that settlement of all other disputes has been recorded in the said deed of settlement. The learned Counsel appearing for the second Respondent on instructions of the second Respondent who is personally present in the Court states that all subsisting disputes between the second Respondent and the first Applicant have been fully settled.

4 A copy of the decree of the divorce and a copy of the deed of settlement are taken on record and marked 'X-1' and 'X-2' respectively for identification.

5 Perusal of the First Information Report shows that the matrimonial dispute between the first Applicant and the second Respondent led

to the registration of the First Information Report. Now there is a complete settlement of the matrimonial dispute.

6 Therefore, in the light of the decision of the Apex Court in case of **Gian Singh vs. State of Punjab & Another**¹, this is a fit case to exercise the power of quashing the First Information Report as well as the criminal proceedings pursuant thereto.

7 Hence, we pass following order:

i) Rule is made absolute in terms of prayer clause (b) which reads thus:

“(b) Issue a Writ of Mandamus and or any other appropriate Writ or Order in the nature of Writ of Mandamus quashing or setting aside the said impugned FIR No.159/2009 dated 16.10.2009 as against the Petitioner (Exhibit-A) registered with Satana Police Station Nashik and R.C. No.80 of 2010 direct the respondents not to proceed further in the matter;”

(A.A. SAYED, J.)

(A.S. OKA, J.)

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1 (2012) 10 SCC 303