

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO.2839 OF 2016

Mr. Mohammadali Madar Nadaf and Others. .. Petitioners
Vs
Mrs. Sahala Mohammadali Nadaf and Another. .. Respondents
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Shri Nizamuddin Khan for the Petitioners.
Shri Abdul Wahab Ansari for the Respondent No.1.
Dr.F.R.Shaikh, APP for the Respondent No.2.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 7TH OCTOBER 2016

P.C.

1. Rule. The learned APP waives service for the second Respondent. The learned counsel appearing for the first Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Writ Petition is for quashing the First Information Report registered at the instance of the second Respondent for the offences punishable under Sections 498(A), 406, 323, 324, 504, 506 read with 34 of the Indian Penal Code.

3. The prayer for quashing is made on the basis of the settlement between the first Petitioner and the first Respondent. The first Petitioner and the first Respondent are husband and wife. The case

made out in the Petition is that during the pendency of the hearing of the Anticipatory Bail Application in this Court, the parties decided to resume cohabitation and in fact, an affidavit was filed by the first Petitioner that he is willing to arrange a separate accommodation in the vicinity of Jogeshwari (West), Mumbai. Reliance is placed on the Leave and License Agreement dated `14th July 2016, a copy of which is annexed to the Writ Petition. The Leave and License Agreement is in respect of a residential flat in Anmol Co-operative Housing Society at Jogeshwari West, Mumbai. There is an affidavit-in-reply filed by the first Respondent in which she has stated that after residential accommodation as aforesaid was arranged by the first Petitioner, she along with the first Petitioner have started residing together. The Senior Inspector of Police of Amboli Police Station has submitted a report on 7th August 2016. The report records that the Investigating Officer visited the residential flat being Flat No.C-402 in Anmol Co-operative Housing Society Limited, Jogeshwari (West), Mumbai -400 102. An inquiry was made with the Secretary of the said Society and with others. The inquiry revealed that for the last two and half months, the first Petitioner and the first Respondent are staying together.

4. Thus, there appears to be a reconciliation between the first Petitioner and the first Respondent. As a result thereof, the matrimonial dispute has come to an end. The First Information Report was

registered as a result of the matrimonial dispute. Therefore, continuation of the criminal proceedings will cause undue hardship to the first Petitioner and the first Respondent. Accordingly, in the light of the law laid down by the Apex Court in the decision in the case of ***Gian Singh v. State Bank of Punjab***¹, this is a fit case to exercise power under Section 482 of the Code of Criminal Procedure, 1973 to quash the First Information Report.

5. Accordingly, we dispose of the Writ Petition by passing the following order:

ORDER :

(a) The Rule is made absolute in terms of prayer clause

(II), which reads thus:

“(II) By issuing appropriate Writ, Order and Direction under Article 227 of the Constitution of India and U/s 482 of Cr.Pc., the F.I.R. bearing No.183/2016 dated 10/05/2016 registered at Amboli Police Station against the Petitioners herein may kindly be quashed.”

(b) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)

1 (2012) 10 SCC 303