

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 999 OF 2016

Shri Piyush Prabhatchandra Jain. .. Applicant.
Vs
The State of Maharashtra and Another. .. Respondents
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Shri Kuldeep U. Nikam for the Applicant.
Shri K.V. Saste, APP for the Respondent No.1.
Shri Vaibhav R. Gaikwad for the Respondent No.2.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 24TH OCTOBER 2016

PC.:

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

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under Section 67 of the Information Technology Act. The Applicant and the second Respondent are husband and wife. It is pointed out that initially the Applicant was not named in the FIR. However, later on, the Applicant was arrested and released on bail.

3. The Applicant and the second Respondent have filed a Petition bearing PF No.902 of 2016 in the Court of Civil Judge, Senior Division, Pune, for obtaining divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. In Clause (b) of Paragraph 8 of the said Petition, it is recorded that the second Respondent will co-operate with the Applicant herein for getting the impugned FIR quashed. The other terms and conditions on which the settlement is arrived at between the Applicant and the second Respondent have been set out in Paragraph 8 of the Petition. The second Respondent has filed an affidavit reiterating that there is a settlement and that the aforesaid Petition has been filed by the parties in the Court of Civil Judge, Senior Division, Pune for seeking divorce by mutual consent.

4. Both the Applicant and the second Respondent are present in Court. Through their respective counsel, they undertake to the Court not to withdraw the consent given by them for passing a decree of divorce by mutual consent.

5. In view of the settlement of the matrimonial dispute, continuation of the criminal proceedings on the basis of which the impugned FIR was registered will cause undue hardship to both the Applicant and the second Respondent. Therefore, this is a fit case to

exercise the powers under Section 482 of the CrPC in view of the law laid down by the Apex Court in the case of ***Gian Singh v. State Bank of Punjab***¹ to quash the FIR.

6. Accordingly, we pass the following order:

ORDER :

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

(a) which reads thus:

“(a) That this Hon'ble Court may be pleased to quash and set aside the FIR bearing No.267 of 2016 dated 08/06/2016 registered with Hinjwadi Police Station, District: Pune u/s. 67 of Information Technology Act as against the present Applicant.”

(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