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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELATE JURISDICTION  
CRIMINAL APPLICATION NO.1041 OF 2016

Fazal Idris Patel & Anr. ...Applicants  
vs.  
The State of Maharashtra ...Respondent

Mr.Mohd. Amin H. Solkar for the applicants  
Ms M.H.Mhatre, APP for the State

CORAM : A.S.OKA, &  
A.A.SAYED, JJ.  
DATE : OCTOBER 26, 2016

P.C.:

. Not on board. Taken on board.

1 Yesterday, we had granted time to the learned APP to take instructions. The learned APP states that she has not received any instructions. The prayer is for quashing the FIR bearing C.R.No.189/2010 registered with Sir J.J.Marg Police Station alleging the offences under sections 498-A, 406, 323, 504, 506 read with section 34 of the Indian Penal Code. Charge sheet was filed by the police. In the charge sheet, the names of the present petitioners have been shown as the persons against whom charge sheet is not filed for the reason that the first petitioner is residing at Dubai on account of his employment and the second petitioner is residing at Dubai along with her husband who is the first petitioner.

2 Our attention is invited to the Judgment and

Order dated 10th April 2012 passed by the learned Single Judge of this Court in Criminal Writ Application No.1174 of 2011. The said application has been filed by the husband and in-laws of the first informant. The prayer for quashing the same FIR was made on the basis of the settlement of the matrimonial dispute. Paragraph 3 of the order dated 10th April 2012 reads thus:

"3 This petition seeks quashing of F.I.R. No.189/2010 for offences punishable under sections 498-A, 406, 504, 506, 323 read with section 34 of the Indian Penal Code registered at J.J.Marge Police Station, Mumbai which culminated into filing Criminal Case No.248/PW/2011, pending before Metropolitan Magistrate, 15<sup>th</sup> Court at Mazgaon, Mumbai, on the report of Respondent No.2 Smt.Fatima Faiyas Patel. The applicants are husband and in laws. The parties have settled their matrimonial dispute and have possibly filed consent terms in the matters under Domestic Violence Act and have entered a divorce. As far as proceedings in Criminal Case No.248 of 2011, pertaining to offences under Sections 498-A, 406, 504, 506, 323 read with section 34 of the Indian Penal Code, are concerned, Respondent No.2 wife who is present in the Court alongwith her advocate, has filed affidavit stating no objection if the petition being allowed. In view of this,

though the learned APP has strong objection to the petition being allowed as the offences are non compoundable, it is allowed as no useful purpose would be served by allowing the proceedings to be continued in Criminal Court. The F.I.R.No.189/2010, for offences punishable under sections 498-A, 406, 504, 506, 323 read with section 34 of the Indian Penal Code, registered at J.J.Marg Police Station, Mumbai and the Criminal Case No.248/PW/2011, pending before the Metropolitan Magistrate, 15<sup>th</sup> Court at Mazgaon, Mumbai are quashed and set aside.

(underline supplied)

3 From the observations made in paragraph 3, it is very clear that the FIR was not quashed qua the applicants before the learned Single Judge, but the FIR was quashed in its entirety in the light of settlement of the matrimonial dispute.

4 Therefore, in the light of clear findings recorded in the order dated 10th April 2012 by the learned Single Judge, the FIR was quashed even as against the applicants. In the circumstances, it is not necessary to grant any of the prayers in this petition.

5 With the above clarification, the application is disposed of.

(A.A.SAYED,J.)

(A.S.OKA,J.)