

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1054 OF 2016

Mr. Hakim Mustakim Sayed

... Applicant
(Orig. Accused)

Vs.

State of Maharashtra & another

... Respondents

.....

Mr. Rafique Ahmed Shaikh for the Applicant.

Mrs. M. H. Mhetre, APP for Respondent No.1-State.

Ms. Yasmin A. Shaikh, for Respondent No.2.

.....

CORAM : A. S. OKA & A. A. SAYED, JJ.

DATE : 26 October 2016.

P.C. :

1. Rule.
2. Learned APP waives service for the first respondent.
Learned counsel appearing for the 2nd respondent waives service.
Forthwith taken up for final disposal.
3. The prayer in this application under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is for quashing the charge sheet filed for the offences punishable under sections 354(B) and 354(D) of the Indian Penal Code, on the basis of the First Information Report registered at the instance of the 2nd respondent.

4. The quashing is sought on the basis of the settlement between the parties. The sister of the 2nd respondent is one Mrs. Aasiya Sayyed. It appears that there was a matrimonial dispute between said Aasiya and her husband, who is the present applicant. In Petition No.A-186 of 2013 filed in the Family Court at Bandra, Mumbai by the applicant against the 2nd respondent's sister, they have arrived at a settlement on 16th February 2016. Accordingly, consent terms were signed by them before a marriage counselor of the Family Court. Learned counsel appearing for the applicant and the learned counsel appearing for the 2nd respondent state that, essentially, it was the matrimonial dispute of the 2nd respondent's sister which led to the registration of First Information Report. On instructions, they state that the consent terms filed in Petition No.A-186 of 2013 have been implemented.

5. As far as the present applicant and the 2nd respondent are concerned, a deed of settlement by mutual consent dated 16th September 2016 has been executed by them, a copy of which is annexed to this application. We have perused the statement of the 2nd respondent on the basis of which the First Information Report

was registered. Even from the said statement, it appears to us that the matrimonial dispute between the applicant and the 2nd respondent's sister was the root cause of filing the First Information Report. Now the said matrimonial dispute has been completely settled. In the light of the affidavit of the 2nd respondent filed in this Court, and in the light of the deed of settlement by mutual consent dated 16th September 2016, this is a fit case to exercise powers under section 482 of Cr.P.C.. Accordingly, we pass the following order:

ORDER

- (i) The proceedings C.C. No.1440/PW/2015 pending before the learned Metropolitan Magistrate, 60th Court, Kurla, arising out of C.R. No. 51 of 2015, registered at Chunnabhatti Police station for the offences under Section 354 (B) (D) of the Indian Penal Code is hereby quashed and set aside.
- (ii) All concerned to act upon an authenticated copy of this order.

(A. A. SAYED, J.)

(A. S. OKA, J.)