

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO.1090 OF 2016

Mr. Abhijeet Subhash Khairnar and Others. .. Applicants.

 V_S

State of Maharashtra and Another. .. Respondents

Shri Amey Deshpande for the Applicant.

Shri K.V. Saste, APP for the Respondent No.1-State.

Ms. Sangita Borse-Jadhav for the Respondent No.2.

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

DATED : 24TH OCTOBER 2016

P.C.

1. Heard learned counsel appearing for the Applicants, the learned counsel appearing for the second Respondent and the learned APP for the first Respondent State.

2. 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.

3. 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) lodged at the instance of the second

Respondent for the offences punishable under Sections 498(A), 406, 504 read with 34 of the Indian Penal Code. Our attention is invited to the judgment and decree passed in the Marriage Petition No.393 of 2011 by the Court of the learned Civil Judge, Senior Division, Kalyan, by which the marriage solemnized between the first Applicant and the second Respondent has been dissolved by mutual consent under Section 13B of the Hindu Marriage Act, 1955 (for short “the said Act”). The agreed terms and conditions have been incorporated in Paragraph 4 of the judgment and order dated 7th July 2016. Today, the second Respondent who is personally present in Court has filed an affidavit recording that in terms of the consent terms as reflected from the aforesaid judgment and decree, she has received a sum of Rs.6 lakhs. In view of the settlement, she has no objection for quashing the criminal proceedings. The first Applicant has also tendered an affidavit in which he has undertaken to withdraw Regular Criminal Case No.199 of 2013 in which he is the Complainant. We accept the said undertaking of the first Applicant.

4. The matrimonial dispute between the first Applicant and the second Respondent has led to the registration of the impugned First Information Report on the basis of which chargesheet has been filed. In view of the settlement of the matrimonial dispute, continuation of the criminal proceedings will cause undue hardship to both the first

Applicant and the second Respondent. In view 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 powers under Section 482 of the CrPC for quashing the FIR.

5. Hence, we pass the following order:

ORDER :

- (a) Rule is made absolute in terms of prayer clause (A), which reads thus;

“(A) this Hon'ble Court be pleased to quash and set aside final report filed in F.I.R. Chargesheet registered with Shivajinagar Police Station, Ambarnath, Dist. Thane bearing C.R. No.I-76/2011 punishable U/s 498(a), 406, 354, 504, R/w 34 of I.P.C. alongwith the Regular Criminal Case No.654 of 2011 pending before Learned Judicial Magistrate First Class, Court No.2 Ulhasnagar.”

- (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