

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3381 OF 2016

Mr. Mubein Salim Shaikh & Ors. Petitioners

V/s

State of Maharashtra & Anr. Respondents

Mr. Edith Dey a/w Mr. Mikhail Dey for the Petitioners.
Ms. M.H. Mhatre, APP for the Respondent No.1/State.
Mr. Hakim Salim for the Respondent No.2.

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

DATED : 10 OCTOBER 2016

ORDER:

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

2 The first Petitioner and the second Respondent were the husband and wife and the second to fifth Petitioners are members of the family of the first Petitioner. Prayer in this Petition is for quashing the criminal proceedings for the offence punishable under section 498A read with section 34 of the Indian Penal Code which was registered at the instance of the second Respondent.

3 Our attention is invited to Consent Terms filed before the Family Court at Bandra, Mumbai in Petition No.A-2 of 2015 filed by the second Respondent. The Consent Terms have been signed by the first Petitioner. In terms of the Consent Terms, a sum of Rs.1,00,000/- has been deposited by the first Petitioner in the Family Court on 26 July 2016.

4 There is a Deed of Divorce dated 27 August 2016 by which the marriage solemnized between the first Petitioner and the second Respondent has been dissolved. A copy of the said Deed has been annexed as Exhibit-B to the Petition.

5 The second Respondent has tendered an Affidavit in which she has accepted the settlement and the fact that there is a customary divorce on 27 August 2016.

6 Thus, the matrimonial dispute between the first Petitioner and the second Respondent has finally come to an end on the basis of the settlement. Hence, the criminal proceedings which were the outcome of the matrimonial dispute cannot be allowed to be prosecuted.

7 In view of the law laid down by the Apex Court in the case of **Giansingh vs. State of Punjab**¹, the Petition must succeed and we pass following order:

1 (2012) 10 SCC 303

ORDER

i) Rule is made absolute in terms of prayer clause (a) which reads thus:

“(a) That this Hon'ble Court be pleased to quash and set aside F.I.R. No.242/13 dated 12.08.2013 and the chargesheet in case bearing C.C. No.760/PW/2014 filed by the Tilak Nagar Police Station, Chembur, pending before the Hon'ble 72nd Metropolitan Magistrate's Court at Vikhroli, Mumbai, be quashed and set aside.”

(A.A. SAYED, J.)

(A.S. OKA, J.)

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