

pmw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1097 OF 2015

Mr. Tushar Subhash Tayade and Ors.

... Applicants

Vs.

The State of Maharashtra

... Respondent

Mr. A.R. Fule i/by Mr. Neeraj B. Jawade for the Applicants.

Dr. F.R. Shaikh, APP for the Respondent.

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

DATE : 11th JULY, 2016

P.C.

1 Rule. The learned APP waives service for the Respondents. The first and fifth applicants are husband and wife. The second applicant is the mother of the first applicant and the third and fourth applicants are respectively sister and brother of the first applicant. The prayer is made in this application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the charge sheet filed for commission of offence punishable under Section 498A read with Section 34 of the Indian Penal Code. Charge sheet was filed on the basis of the FIR registered at the instance of the fifth applicant. It appears that after registration of the FIR, the first applicant and the fifth applicant filed a Petition under Section 13(B) of the Hindu Marriage

Act, 1955 (for short “the said Act”) being Petition No.F-418 of 2014 before the learned Principal Judge of the Family Court at Nagpur. Our attention is invited to the averments made in the said joint petition and in particular clause (g) of paragraph 2 of the said Petition which records that the fifth applicant agreed for quashing the present proceedings. Our attention is invited to the judgment and decree dated 31st August, 2015 passed by the learned Judge of the Family Court No.2 at Nagpur by which a decree for divorce under Section 13(B) of the said Act by mutual consent of the first and fifth applicants was passed in the said Petition bearing No.F-418 of 2014. In paragraph 7 of the judgment, the learned Judge of the Family Court has recorded a finding that there is no subsisting claim of the husband and wife against each other.

2 Perusal of the charge sheet shows that the matrimonial dispute between the first applicant and the fifth applicant resulted into the registration of the impugned FIR. Now, there is a complete settlement in the matrimonial dispute. Therefore, this is a fit case to exercise power under Section 482 of the Code of Criminal Procedure, 1973 in the light of the law laid down by the Apex Court in the case Gian Singh Vs. State of Punjab and Another¹.

3 Accordingly, application must succeed and we pass the following order :-

1 (2012) 10 SCC 303

ORDER

(i) Rule is made absolute in terms of prayer clause (1) on page

8 which reads thus :-

“(1) quash and set aside proceedings of RCC No.189/2014, for the offence punishable under section 498-A read with section 34 of the I.P.C. pending on the file of JMFC Court No.3, Nashik Road, Nashik at Annexure – A-1 in the interest of justice;”

(ii) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)