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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
WRIT PETITION NO.3581 OF 2016

Amey Hemant Nikumbh & Anr. ...Petitioners
vs.
The State of Maharashtra & Anr. ...Respondents

Ms Uma Waghe for the Petitioners
Ms M.H.Mhatre, APP for the respondent No.1
Mr.Anil Joshi for respondent No.2

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

ORAL JUDGMENT: (PER A.S.OKA,J.)

. Not on board. Taken on board.

1 Rule. The learned APP waives service for the first respondent. The learned counsel for the second respondent waives service. Forthwith taken up for final hearing.

2 Prayer in this petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure,1973 (for short `Cr.P.C.) is for quashing the First Information Report registered for the offences under sections 498-A, 406, 343, 504, 506 read with section 34 of the Indian Penal Code.

3 The first petitioner and the second respondent are husband and wife. The parties are relying upon the consent terms dated 4th October 2016 filed

Petition No.A-348 of 2016 in the Family Court at Thane. The consent terms have been filed by the parties in the petition filed by the first petitioner.

4 There is an affidavit filed by the second respondent in which it is stated that there is already an application made by the first petitioner for converting the Petition No.A-348 of 2016 into a petition under section 13-B of the Hindu Marriage Act. Today, the learned counsel for the petitioner has handed over to the learned counsel for the second respondent a demand draft in the sum of Rs.9,00,000/- particulars of which have been described in clause (9) of the affidavit in reply filed by the second respondent. The second respondent has recorded her no objection for quashing the FIR.

5 The first petitioner and the second respondent through their learned counsel undertake not to withdraw their consent recorded for dissolving their marriage by a decree of divorce by mutual consent under section 13-B of the Hindu Marriage Act,1955.

6 We must note that the learned counsel for the second respondent had raised certain objections to some of the averments made in the petition. On the basis of the permission granted by this Court, the said averments have been deleted.

7 We are satisfied that now there is a complete

settlement between the first petitioner and the second respondent. The root cause for the registration of the impugned FIR was the matrimonial dispute. Considering the settlement of the matrimonial dispute, now it is unjust to continue the criminal proceedings which will cause undue harassment to the parties.

8 Hence, in the light of law laid down by the Apex Court in the case of *Gian Singh versus State of Punjab and another*¹, this is a fit case to exercise power under section 482 of the Code of Criminal Procedure, 1973.

9 Accordingly, we pass the following order:

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

“(a) by appropriate writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the charge sheet bearing No.I-184 of 2015 filed for the offence u/s 498-A, 406, 343, 504, 506 read with section 34 of the Indian Penal Code, 1860 along with proceeding in C.R.No.420562 of 2015 pending in the Court of Hon'ble Judicial Magistrate First Class at Thane, filed on the First Information Report bearing No.410/2014 dated 17.11.2014 registered with Kapurbavadi Police Station, Thane filed by the Respondent No.2 against the petitioners.”

(II) All concerned to act upon an authenticated copy of this Judgment and order.

(A.A.SAYED,J.)

(A.S.OKA,J.)