

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4166 OF 2015

Shri Jitendra Lalchand Khiyani & Others. ... Petitioners.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. V. A. Madane, Advocate for the Petitioners.

Mrs. M. M. Deshmukh, APP for the State.

Ms. Hansa Mehta, Advocate for Respondent No.2.

**CORAM : NARESH H. PATIL AND
A. M. BADAR, JJ.**

DATE : 12th APRIL, 2016.

P.C. :

1 By this petition under Article 226 of the Constitution of India, read with Section 482 of the Criminal Procedure Code, 1973, Petitioners/accused are praying for quashing and setting aside Regular Criminal Case No. 300609 of 2013 for offences punishable under sections 498A, 323, 504, 506, r/w. 34 of the Indian Penal Code, pending against them on the file of the learned JMFC at Nashik.

2 Heard the learned counsel appearing for the Petitioners as well as Respondent No.2/informant/wife. Both

the learned counsel have unanimously submitted that Petitioners/Accused and Respondent No.2/informant/wife have amicably settled the matrimonial dispute and accordingly the consent terms came to be executed by them before the learned JMFC, Nashik.

2 Respondent No.2 /informant Mrs. Anusha Jitendra Khiyani is present before the Court. She is duly identified by her learned counsel. Upon being asked, she submits that she as well as Petitioner No.1 have filed a mutual consent divorce petition before the Family Court, Nashik and that they have also executed the consent terms. She further submitted that she has no objection if the criminal proceedings initiated by her against the Petitioners on the basis of investigation of FIR lodged by her are quashed.

4 We have also heard the learned APP appearing for the State.

5 It is seen that the Regular Criminal Case No. 300609 of 2013 came to be registered against the present petitioners on the basis of the chargesheet filed against them in pursuant to the investigation of the Crime No. I-88 of 2013 registered at the instance of Respondent No.2 Mrs. Anusha. Now the parties have settled the matrimonial dispute and that Respondent No.2/ informant does not desire to prosecute the

criminal case. The offence registered against the present petitioners is arising out of matrimonial dispute. As the parties have settled the dispute, continuation of the prosecution would certainly result in wastage of valuable time of the court and public fund. No public law element is involved in the instant case. Hence, the petition deserves to be allowed with the following order :

i) Writ Petition is allowed.

ii) Proceedings in Regular Criminal Case No. 300609 of 2013 pending against the Petitioners in the court of the learned JMFC, Nashik for the offences punishable under sections 498A, 323, 504, 506, r/w. 34 of the Indian Penal Code, initiated at the instance of Respondent No.2- Mrs. Anusha Khiyani are hereby quashed and set aside.

(A. M. BADAR, J.)

(NARESH H.PATIL,J.)

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