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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1163 OF 2014**

Sheela Subhash Sali and Anr.	... Applicants
Vs.	
The State of Maharashtra and Anr.	... Respondents

**IN
CRIMINAL APPLICATION NO.1166 OF 2014**

Abhiraj Subhash Sali	... Applicant
Vs.	
The State of Maharashtra and Anr.	... Respondents

Mr. R.R. Salvi i/by Ms. Suvarna Telegote for the Applicants.
Ms. M.H. Mhatre, APP for the Respondent No.1.
Ms. Shradha Sawant for the Respondent No.2.

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

DATE : 29th SEPTEMBER, 2016

PC.

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

2 The challenge in both these applications under Section 482 of the Code of Criminal Procedure, 1973 is to the criminal proceedings

initiated by the second Respondent is the subject matter of challenge in Criminal Application No.1166 of 2014. The First Information Report (FIR) bearing No.C.R.91 of 2014 registered at Bhadrakali Police Station, Nashik for commission of offences under Sections 420 and 406 of the Indian Penal Code (IPC) is the subject matter of challenge in Criminal Application No.1166 of 2014. Subsequently charge sheet has been filed. The Applicant in Criminal Application No.1166 of 2014 and the second Respondent in both the applications are husband and wife. The first Applicant in the Criminal Application No.1163 of 2014 is the mother of the husband and the second Applicant is the husband. The Criminal Application No.1163 of 2014 is filed for challenging the FIR bearing No.169 of 2014 for the offences under Sections 498A, 323, 406, 504, 506 read with Section 34 of the IPC. The second Respondent is the first informant in case of both the offences.

3 Prayer for quashing is made on the basis of memorandum of understanding dated 14th February, 2016 executed by and between the husband and wife to which the other members of the family of the Applicant are parties. We have perused the said memorandum of understanding which refers to 11 cases pending between the parties. The memorandum provides for settlement of all the cases subject to various terms and conditions incorporated in the said memorandum.

These two applications remained pending as certain compliances remained to be done in terms of the memorandum of understanding. Now in both the applications, affidavits have been filed which are dated 27th September, 2016 by the second Respondent. In the said affidavits the second Respondent has accepted the settlement in terms of the said memorandum of understanding dated 14th February, 2016. It is pointed out that all the terms and conditions in the memorandum of understanding have been complied with and now what remains to be done is quashing of the impugned FIRs and obtaining decree of divorce by mutual consent. The learned counsel appearing for the Applicant and the second Respondent state that Petition No.A-22/2014 pending between the husband and wife in the Family Court at Nashik has been already converted into a Petition under Section 13-B of the Hindu Marriage Act, 1955. It is stated that the converted Petition is kept tomorrow for passing orders. The learned counsel appearing for the husband and the learned counsel appearing for the wife on instructions of the husband and the wife who are personally present in the Court state that both of them will not withdraw the consent given by them for passing a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955. We accept the said statements made on instructions.

challenge in these two Applications was the matrimonial dispute between the husband and wife. Now there is a complete settlement of the matrimonial dispute. In FIRs subject matter of Criminal Application No.1163 of 2014, the offences alleged are under Sections 498A, 323, 406, 504 and 506 read with Section 34 of the Indian Penal Code. In the criminal proceedings subject matter of Criminal Application No.1166 of 2014, the offences alleged are under Sections 420 and 406 of the Indian Penal Code.

5 In view of a complete settlement of the matrimonial dispute, now the continuation of criminal proceedings will cause undue hardship to both the Applicant and the second Respondent. Therefore, in the light of the law laid down by the Apex Court in the case of Gian Singh Vs. State Bank of Punjab¹, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure, 1973. Hence, we pass the following order :-

ORDER

- (i) In Criminal Application No.1163 of 2014, Rule is made absolute in terms of prayer clause (b) which reads thus :-

- (b) This Honourable Court be pleased to quash and

1 (2012) 10 SCC 303

set aside C.R.No.169 of 2014, dated 26.05.2014 registered at Bhadrakali Police Station Nashik, for the alleged offences u/sec. 498(A), 323, 504 and 506 of Indian Penal Code read with Section 34 of Indian Penal Code.

(ii) In Criminal Application No. 1166 of 2014, Rule is made absolute in terms of prayer clauses (b) and (bb) which read thus :-

(b) This Honourable Court be pleased to quash and set aside C.R.No.91 of 2014 dated 11.03.2014 registered at Bhadrakali Police Station Nashik, for the alleged offences u/sec.420 of Indian Penal Code;

(b)(b) This Hon'ble Court also be pleased to quash and set aside chargesheet No.I 223/2014 dated 14.11.2014 filed in the Court of Judicial Magistrate (F.C.) Nashik.

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

(A.A. SAYED, J)

(A.S. OKA, J)