

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

CRIMINAL APPLICATION NO. 1429 OF 2016

Nikhil Chandra Prakash Motwani & Ors. ... Applicants.

V/s.

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

Mr. Niranjan S. Mundargi, Advocate for the Applicants.

Mr. K. V. Saste, APP for the State-Respondent No.1.

Mr.S. M. Dhumal, Advocate for Respondent No.2.

**CORAM : V. M. KANADE AND
Ms.NUTAN D.SARDESSAI,JJ.**

DATE : 07th DECEMBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of the Applicants and the learned counsel appearing on behalf of the Respondent No.2-Complainant.

2 A criminal complaint was filed by Respondent No.2 - wife for the offences punishable under sections 498-A, 354-A, 406 read with section 34 of the Indian Penal Code.

3 The parties have now amicably settled the dispute out of court. Respondent No.2 has filed affidavit-in-reply, wherein she has stated that she has received Rs. 10 lakhs towards permanent alimony and it is deposited in the Family Court. The parties have also filed an application for divorce by mutual consent wherein the consent terms have also been filed. On all criminal complaints are quashed or withdrawn, Respondent No.2 wife will be entitled to withdraw the said amount of Rs. 10 lakhs.

4 We have interviewed the Respondent No.2. She is 25 years old. She has stated that she has no objection if the complaint filed by her is quashed. She has further stated that she would like to start her life afresh and, therefore, she has filed this reply affidavit and has given consent for quashing the complaint.

5 We are satisfied that quashing of the complaint will be in the best interest of Respondent No.2. Secondly, the marriage between the parties has irretrievably broken down and they have also filed the petition, seeking divorce by mutual consent. The ratio of the judgment of the Apex Court in the case of **B.S. Joshi & Ors. vs. State of Haryana & Anr.** , reported in AIR 2003 Supreme Court 1386, will apply to the facts of the present case.

6 The complaint filed by the Respondent No.2 is, therefore, quashed. This Criminal Application is allowed in terms of prayer clause (a).

7 There is one other case filed by the Respondent No.2 under the Domestic Violence Act and if that is withdrawn by her, the Family Court shall permit the Respondent No.2 to withdraw the said amount which is already deposited by the Applicant in the Family Court.

8 The criminal application is disposed of in the aforesaid terms.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J)

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