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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5080 OF 2015

Nikhil Dilipkumar Shah	..	Petitioner.
V/s.		
State of Maharashtra and anr.	..	Respondents

Mr. Dushyant Purekar for the petitioner.
Mr. K.V. Saste, APP for respondent-State.
Mr. Shyam Dhar for respondent no.2.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : FEBRUARY 12, 2016**

P.C. :-

1. Heard learned counsel for the applicants, learned counsel for respondent No.2 and learned A.P.P. for the State.
2. The learned counsel at the outset seeks liberty to amend the prayer clause so as to give particulars of the criminal case. Leave is granted. Necessary amendment shall be carried out forthwith.
3. This petition is filed under the provisions of Article 1226 of the Constitution read with Section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal proceeding bearing CC No.PW/2800/969/2015 pending in the Court of Chief Metropolitan Magistrate, Esplanade Courts, 28th Court, Mumbai registered on the basis of F.I.R. bearing No. 118 of 2015 with the L.T. Marg Police Station at the instance of respondent No.2 against the petitioners

for the offences punishable under Sections 498A, 406, 323, 506 read with Section 34 of the Indian Penal Code.

4. Petitioner No. 1 and respondent no.3 were married on 9th December, 2012. The rest of the petitioners are family members of petitioner No.1. Matrimonial disputes between the parties gave rise to the filing of several criminal cases as well as civil matters. The subject matter of the present petition is one of them.

5. Pending the trial, the parties have amicably settled their dispute and accordingly obtained divorce by mutual consent by Divorce Petition No. A-2238 of 2014 filed in the Family Court at Bandra. In pursuance of an understanding arrived at between them, have approached this Court for quashing of the subject criminal case pending in the Court of Chief Metropolitan Magistrate, 28th Court, Esplanade, Mumbai by consent. Respondent No.2 has filed an affidavit on 11th February, 2016. In paragraph 7A, she has stated that she has no objection if the subject criminal case is quashed. Respondent No.2 is personally present before the Court. She is identified by her Advocate. On being questioned, respondent No.2 has specifically stated that she has gone through the affidavit and has fully understood the contents thereof and has no objection if the subject criminal proceedings are quashed. She

also states that she is giving no objection for quashing the subject criminal case out of free will and without there being any pressure or coercion.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the offence. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the proceedings of the criminal case would be in the interest of respondent No.2. Besides that, no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject criminal case is required to be quashed. However, at the same time, cost needs to be saddled on the petitioners for using the police and judicial mechanism for settling the personal disputes.

7. Accordingly, the subject criminal case as against the petitioners is quashed subject to payment of cost of Rs.50,000/- by the petitioners, to be deposited with Tata Memorial Cancer

Hospital, Mumbai for the use of its philanthropic purposes. The petitioners shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which the petition shall stand dismissed automatically without further reference to the Court.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)