

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO.139 OF 2017**

1. Dr. Abhijit Kishore Korane
r/o 3rd floor, Korane Terraces,
Opp. Ambai Tank behind Shalini
Palace, Kolhapur.
2. Mr. Kishore Balwant Korane,
Residing at 'JIGDNYASA' 1335
A-Ward Korane Mala after Sutar
Mala, Phulewadi, Kolapur,
Maharashtra
3. Mrs. Rekha Kishore Korane,
Residing at 'JIGDNYASA' 1335
A-Ward Korane Mala after Sutar
Mala, Phulewadi, Kolapur,
Maharashtra
4. Mr. Ashutosh Kishore Korane,
Residing at 'JIGDNYASA' 1335
A-Ward Korane Mala after Sutar
Mala, Phulewadi, Kolapur,
Maharashtra .. Petitioners

V/s.

1. Mrs. Madhavi Abhijit Korane,
C/o M. S. Motankar
'Shivam' Plot No.21, Navo
vaddo, Behind Anil Salgaonkar's
Bungalow, Gogol Margao, Goa
2. Public Prosecutor
High Court of Bombay
At Panaji Goa.
3. Police Inspector,
Margao Town Police Station .. Respondents

Mr. Arun Bras De Sa, Advocate for the petitioners.

Respondent no.1 in person.

Mr. Pravin N. Faldessai, Additional Public Prosecutor for the respondent nos.2 and 3.

CORAM: C. V. BHADANG &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 18th August, 2017.

ORAL JUDGMENT : (Per C. V. Bhadang, J.)

Rule, made returnable forthwith. Parties waive service. Heard finally by consent of the parties.

2. By this petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure (Code, for short), the petitioners are seeking quashing of the proceedings in Criminal Case No.357/S/2013/II on the file of the learned Additional Judicial Magistrate, First Class at Margao. The petitioner no.1 is the husband of the first respondent, while the petitioner nos.2 to 4 are her in-laws. On the basis of a complaint lodged by the first respondent, offences punishable under Sections 498-A, 323 read with Section 34 of Indian Penal Code (Code, for short) and Section 4 of Dowry Prohibition Act, 1961, were registered against the petitioners and after investigation, they have been chargesheeted and are facing prosecution in the

aforementioned case.

3. It appears that the first respondent has filed a Matrimonial Petition No.18/2016/I for dissolution of marriage against the first petitioner, which is pending before the learned Senior Civil Judge at Margao.

4. The parties have, since after the filing of the petition, arrived at an amicable settlement, the terms of which, are reduced into writing. The parties have decided to amicably settle their dispute. The petitioner no.1 has agreed to pay an amount of Rs.38 Lakhs to the first respondent by a Demand Draft of HDFC Bank bearing No.993421, dated 30/06/2017. The parties submit that the said Demand Draft favouring the first respondent in the sum of Rs.38 Lakhs, has been produced before the learned Senior Civil Judge at Margao and the first respondent would collect the same.

5. We have verified the correctness of the consent terms from the first petitioner, who is present before the Court and the first respondent, who appears in person. The first respondent admits the correctness of the contents thereof. The first respondent has also filed reply, admitting the correctness of the

consent terms and seeking release of the silver articles attached during the panchanama conducted on 09/02/2013.

6. The learned Counsel for the petitioners, on instructions, states that the petitioners have no objection for release of the silver articles.

7. The Hon'ble Supreme Court in the case of ***B. S. JOSHI AND OTHERS VS. STATE OF HARYANA AND ANOTHER***; (2003)4 SCC 675, has held that this Court can exercise jurisdiction under Section 482 of Cr.P.C., to bring an end to the prosecution, where the dispute is a matrimonial dispute and the parties have amicably settled the same. It has been, *inter alia*, held that in such cases, it is the duty of the Court to encourage genuine settlements of matrimonial disputes.

8. In such circumstances, the following order is passed :

- (i) The petition is allowed in terms of prayer clause (A).
- (ii) The first respondent shall be entitled to collect the Demand Draft of HDFC Bank bearing No.993421, dated 30/06/2017 from the Court of the learned Senior Civil Judge, Margao.

(iii) The silver articles attached during the panchanama conducted on 09/02/2013, shall be released in favour of the first respondent.

(iv) Rule is made absolute in the aforesaid terms.

SMA PRITHVIRAJ K. CHAVAN, J. C. V. BHADANG, J.