

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 140 OF 2017**

Mohd. Rauf Hasan Ajwani & Ors.

..Petitioners

v/s.

The State of Maharashtra & Anr.

..Respondents

Ms. Heena Suvarnakar i/b. Mr. Kuldeep S. Patil for the Petitioner
Mr. K.V.Saste, APP for the Respondent No.1.
Mr. Ranjeet H. Patil for the Respondent No.2.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 25TH JANUARY, 2017**

P.C.

1. Rule. The learned Counsel appearing for the second respondent-wife waives service. The learned APP waives service for the first respondent. Forthwith taken up for final disposal.
2. The prayer in this petition under Article 226 of the Constitution of India, read with Section 482 of the Criminal Procedure Code, 1973 (for short "Cr.P.C.") is for quashing the First Information Report registered at the instance of the second respondent for the offences

punishable under Sections 324, 323, 504 read with 34 of the Indian Penal Code. The second respondent, who is the first informant is the sister of the first petitioner. The second petitioner is the wife of the first petitioner and the third and fourth petitioners are the sons of the sister of the second respondent. The prayer for quashing is made on the ground of settlement between the petitioners and the second respondent who are very close relatives.

3. We have perused the statement of the second respondent, on the basis of which the First Information Report has been registered. It seems that the second petitioner had borrowed a sum of Rs.35,000/- from the second respondent. According to the case of the second respondent, the said amount was not returned by the second petitioner. The incident appears to have occurred arising out of the dispute over the repayment of the amount.

4. We have perused the injury certificate of the second respondent. The injuries are simple in nature. The offences alleged under Sections 323 and 504 are compoundable. Considering the close relationship between the parties, they have arrived at settlement, as reflected from the affidavit dated 16th January, 2017

filed by the second respondent.

5. The offence alleged cannot be said to be against the society at large or of a serious nature. The incident arose out of a dispute over monetary transaction. As stated earlier, parties are closely related. Therefore, continuation of criminal proceedings will not serve any purpose, and the chances of conviction are very bleak. In such circumstances, this is a fit case to exercise powers under Section 482 of Cr.P.C. Accordingly, we pass the following order:

i) Rule is made absolute in terms of prayer clause (a) which reads thus:

“a) The Honourable Court may pass appropriate orders/writ/directions and quash and set aside all the proceedings arising out of F.I.R. bearing C.R.No. I-306 of 2015 registered with Malwani Police Station, Mumbai.”

ii) All concerned to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)