

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.177 OF 2017

Mr. Naved Iqbal Shaikh and Others.	..	Petitioners
Vs		
The State of Maharashtra and Others.	..	Respondents

Mr. Abdul R. Shaikh for the Petitioners.
Shri K.V. Saste, APP for the Respondent No.1.
Mrs. Aisha M.Z. Ansari for the Respondent No.2.

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 2ND MARCH 2017

(ORAL JUDGMENT (PER A.S. OKA, J)

1. Rule. The learned APP waives service for the first Respondent. The Advocate for the second Respondent waives service. 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 Code of Criminal Procedure, 1973 (for short “CrPC”) is for quashing the First Information Report (FIR) lodged at the instance of the second Respondent for the offences punishable under Sections 498(A), 323, 504 and 506 of the

Indian Penal Code. The prayer for quashing is made on the basis of the settlement between the first Petitioner and the second Respondent. The Petitioner and the second Respondent are the husband and wife. The second Respondent is the first informant who has set the criminal law in motion by registering the offence against the Petitioners.

3. The parties are relying upon the settlement arrived at in the form of consent terms filed before the learned Judicial Magistrate, First Class, Cantonment Board, Pune in a Complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 by the second Respondent. The settlement records that at the relevant time i.e. 26th May 2015, the first Applicant was a resident of Dubai. The second Respondent along with her children agreed to start residing with the first Petitioner at Dubai. On the basis of the said settlement, the second Respondent was permitted to withdraw the said complaint filed under Section 12 of the said Act of 2005.

4. Today, the learned counsel appearing for the second Respondent has tendered across the bar an affidavit dated 14th February 2017 executed by the second Respondent before one Lance William Wiltshire, a Notary Public at Auckland in New Zealand. A certificate of execution of the said affidavit separately signed and sealed by the said Notary Public is annexed to the said affidavit. In the said affidavit, the

second Respondent has stated that since July 2015, she resumed cohabitation with the first Petitioner at Dubai and since then, she along with her children are living together with her husband. Thereafter, the first Petitioner along with the second Respondent shifted to New Zealand. She has stated that all of them have been peacefully staying together and, therefore, there is no objection for quashing the proceedings.

5. In view of the settlement filed before the learned Judicial Magistrate, First Class and the affidavit tendered today of the second Respondent, it appears that from July 2015 onwards, the second Respondent and the first Petitioner have resumed cohabitation and till today, they are staying together along with their children in New Zealand.

6. In view of the reconciliation between the first Petitioner and the second Respondent, now continuation of the criminal proceedings arising out of the matrimonial dispute will cause undue harassment to both the first Petitioner and the second Respondent.

7. Hence, the Petition must succeed and we pass the following order.

ORDER :

- (a) Rule is made absolute in terms of prayer clause (a),

which read thus:

“(a) That this Hon'ble Court in its inherent and writ jurisdiction under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code may be pleased to quash and set aside the criminal case No.412 of 2014 pending before the J.M.F.C. Court, Pune.”

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)