

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

WRIT PETITION NO.211 OF 2017

Mr. Avinash Suresh Patil & Ors.	...Petitioners
Versus	
The State of Maharashtra & Anr.	...Respondents

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Mr. C.K. Bhangoji i/b. Mr. R.K. Mendadkar for the Petitioners.
Mr. K.V. Saste, APP for the Respondent No.1-State.
Mr. Tanaji Vishnu Jadhav for the Respondent No.2.

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

DATED: 15th MARCH, 2017.

P.C.:-

Rule. The learned APP waives service of notice for the first Respondent. The learned counsel for the second Respondent waives service of notice. Forthwith taken up for final disposal.

2. The first Petitioner and the second Respondent are husband and wife. 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 'Cr.P.C.') is for quashing the criminal proceedings based on registration of the First Information Report at the instance of the second Respondent for the offences punishable under

sections 498A, 326, 341, 342, 504 and 506 read with 34 of the Indian Penal Code. These Petitioners are the accused.

3. The consent terms were filed between the parties in the Court of Additional Chief Metropolitan Magistrate, 5th Court, Dadar in the proceedings under the Protection of Women from Domestic Violence Act 2005. A copy of the consent terms is annexed as Exhibit 'B' to the Petition. The consent terms have been admittedly signed by the first Petitioner and the second Respondent and their respective Advocates. On the basis of the said consent terms, the first Petitioner and the second Respondent filed a joint Marriage Petition No.1225 of 2016 in the Court of Civil Judge, Senior Division, Kalyan, seeking a decree of divorce by mutual consent under section 13(B) of the Hindu Marriage Act, 1955.

4. As agreed in the consent terms, a sum of Rs.6 lakhs has been deposited by the first Petitioner in the Court of Civil Judge, Senior Division, Kalyan. The learned counsel appearing for the parties, on instructions, state that the Petition for divorce by consent is fixed on 5th April, 2017. The second Respondent has filed an affidavit recording her no objection for quashing the criminal proceedings. The first

Petitioner and the second Respondent through their respective counsel undertake not to withdraw their consent for passing a decree of divorce in terms of section 13 (B) of the Hindu Marriage Act, 1955. In view of the complete settlement of matrimonial dispute, continuation of criminal proceedings based on matrimonial dispute will cause undue harassment to both the parties. This is a fit case to exercise the jurisdiction under section 482 of Cr.P.C.

5. We, accordingly pass following order:

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

“a) That this Hon'ble Court be pleased to quash and set aside the proceedings in Criminal Case No.900279/2013 and pending before the Ld.2-4th Jt. C.J.J.D. J.M.F.C., Kalyan, District Thane (lodged vide FIR 34 of 2013) pending on the file of 2-4th Jt. C.J.J.D. J.M.F.C. Kalyan, District Thane.”

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

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)