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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.217 OF 2017**

Mr. Neeraj S/o. Umashankar Goenka and Ors.	... Petitioners
Vs.	
The State of Maharashtra and Anr.	... Respondents

Mr. Ashok M. Saraogi for the Petitioners.
Mrs. S.V. Sonawane, APP for the Respondent No.1.
Ms. Radhika Dave for the Respondent No.2.

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

DATE : 17th FEBRUARY, 2017

PC.

1 Rule. The learned counsel appearing for the second respondent 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 Code of Criminal Procedure, 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 498A, 406, 420, 323, 504 read with 34 of the Indian Penal Code. The second respondent and the first petitioner are the wife and the husband respectively. The second and third petitioners are the parents of the first petitioner.

3 In Petition for divorce filed by the second respondent being Petition No.A-2753/2016 in the Family Court at Bandra, Mumbai, consent terms have been filed by the first petitioner and the second respondent on 11th January, 2017 before the Marriage Counsellor of the Family Court. A true copy of the consent terms has been annexed as Exhibit – B to the Petition. It records that apart from returning articles belonging to the first respondent, a sum of Rs.1,50,000/- has been paid by the first petitioner to the second respondent by a cheque dated 11th January, 2017. The consent terms record that a sum of Rs.21 Lakhs has been paid by the first petitioner to the second respondent by three pay orders in the sum of Rs.10 Lakhs, 6 Lakhs and 5 Lakhs respectively more particularly described in clause 5 of the consent terms. The first petitioner and the second respondent have agreed to convert the pending Petition into one under Section 13B of the Hindu Marriage Act, 1955. The learned counsel appearing for the petitioners on instructions states that the Petition has been accordingly converted. We accept the statement.

4 Consent terms provide that the parties shall take immediate steps for quashing the FIR subject matter of this Petition. Clause 7 records the agreement of the parties in that behalf. Clause 9 records

consent of the second respondent for quashing the FIR.

5 The second respondent has filed affidavit acknowledging correctness of the consent terms. She has accepted that the first petitioner has paid a sum of Rs.21 Lakhs to her. She has given her no objection for quashing the FIR.

6 The learned counsel appearing for the petitioners states that the petitioners are personally present in the Court. The learned counsel appearing for the second respondent states that the second respondent is personally present in the Court. The first petitioner and the second respondent through their respective learned counsel undertake to the Court not to withdraw their consent for grant of divorce under Section 13B of the Hindu Marriage Act, 1955. It is the matrimonial dispute between the first petitioner and the second respondent which led to the registration of the impugned FIR.

7 Now, in view of the complete settlement of the matrimonial dispute, the continuation of criminal proceedings will cause undue harassment to the parties. Hence, this is a fit case to exercise the power under Section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass the following order :-

ORDER

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

“(a) that this Hon'ble Court be pleased to pass appropriate writ, order and direction directing the quashing of FIR No. No.777 of 2016 registered under the provisions of Section 498A, 406, 420, 323, 504, 34 of IPC registered by the Respondent Nos.1 at the instance of the Respondent No.2 as against the Petitioners on such terms as this Hon'ble Court may deem fit and proper.”

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

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)