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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.76 OF 2017**

Harpreet Singh Malhotra	... Petitioner
Vs.	
The State of Maharashtra and Anr.	... Respondents

Mr. Anand Harminder Singh for the Petitioner.
Ms. R.M. Gadhvi, Additional Public Prosecutor for the Respondent No.1.
Mr. Nikhil Wadikar i/by Mr. Anand Kumar Nadar for the Respondent No.2.

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

DATE : 14th MARCH, 2017

PC.

1 Rule. The learned AGP waives service for the first respondent. The learned counsel appearing for the second respondent waives service. Forthwith taken up for final disposal.

2 The 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 "CrPC") is for quashing the charge sheet filed by the Police for the offences punishable under Sections 337, 323 and 504 of the Indian Penal Code on the basis of the First Information Report lodged by the second respondent. The prayer for quashing is made on the basis of the

settlement between the petitioner and the second respondent. A copy of the consent terms arrived at between the petitioner and the second respondent is annexed as Exhibit – C to the Petition.

3 In terms of the consent terms, the petitioner and the second respondent have filed a joint Petition being Petition No.-180 of 2017 in the Family Court at Bandra, Mumbai for grant of a decree of divorce under Section 13B of the Hindu Marriage Act, 1955 (for short “the said Act”). The said Petition has been filed on 11th January, 2017. The learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent state that the said Petition has been fixed for hearing before the Family Court on 13th July, 2016. A copy of the said Petition is taken on record and marked as Exhibit – 'P-1' for identification. A copy of the same consent terms has been annexed to the said Petition. The consent terms show that the petitioner and the second respondent agreed to take a divorce by mutual consent under Section 13B of the said Act. The petitioner has agreed to pay a sum of Rs.5 Lakhs by Demand Draft to the second respondent at the time of second motion in the Petition filed under Section 13B of the said Act. The said amount will be towards permanent alimony and maintenance to the second respondent and future claims of sreedhan. Clause 6 of the settlement records that the petitioner and his family has returned the entire sreedhan and articles as claimed by the second respondent.

4 The second respondent has filed an affidavit dated 11th January, 2017 recording her consent for quashing the FIR on the basis of the settlement.

5 Perusal of the FIR and the charge sheet shows that matrimonial dispute between the petitioner and the second respondent was the root cause of registration of the FIR at the instance of the second respondent. Now, there is a complete settlement of the matrimonial dispute and therefore, continuation of criminal proceedings will cause undue harassment to the parties. Therefore, as held by the Apex Court in the case of Gian Singh Vs. State of Punjab¹, this is a fit case to exercise powers of this Court under Section 482 of the Code of Criminal Procedure, 1973.

6 Accordingly, we pass the following order:-

ORDER

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

(a) That by an appropriate order and direction of this Hon'ble Court the FIR No.321 of 2014 registered by R.C.F. Police Station and wherein charge sheet has been

1 (2012) 10 SCC 303

filed against the petitioner before the Ld. Metropolitan magistrate, 52nd Court at Kurla, Mumbai bearing C.C. No.485/PS/2016 for the offence u/sec.337, 323, 504 of the Indian Penal Code against the petitioner, the same be quashed and set aside and the petitioner be acquitted of the said offence and his bail bond be cancelled.”

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

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)