

nsc.

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

CRIMINAL WRIT PETITION NO.491 OF 2017

1. Amin Amjad Matekar
 2. Shamim Amjad Matekar
 3. Mohsina Aslam
 4. Mubina Altaf Sarnaik
 5. Aslam Amjad Matekar. ...Petitioners
- Versus

1. The State of Maharashtra
2. Shaista Banu Amin Matekar ...Respondents

Mr.A.A.Mir, for the Petitioners.

Ms.A.S.Pai, A.P.P. for the Respondent-State

Mr.Salim Hakim, A.R., for Respondent No.2.

***CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.***

DATE : 7th MARCH, 2017

P.C. :

1. Heard learned counsel for the petitioners, learned counsel for the respondent no.2 and the learned APP.

2. The petition is filed for quashing and setting-aside of criminal case being C.C.No.2035/PW/2014 pending on the file of learned Metropolitan Magistrate, 51st Court at Kurla, Mumbai. The said case arises out of FIR No.222 of 2013 registered with Kurla Police Station, Mumbai, at the instance of respondent No.2, for the offences punishable under Sections 498A, 323, 504, 506, 406, r/w 34 of the Indian Penal Code, 1860.

3. The petitioner No.1 was married to respondent No.2. Rest of the petitioners are the family members of petitioner No.1. The petitioner No.1 and respondent no.2 have settled their dispute amicably and have filed consent terms for divorce in Petition No.A-2628 of 2015, pending in the Family Court at Bandra, Mumbai. In terms of clause - 8 thereof, the parties have agreed that the petitioners shall approach this Court for not pressing subject criminal case and the respondent no.2 shall consent for the same.

4. Learned Counsel for the petitioners submitted that the terms and conditions of the Consent Terms are complied with by the petitioner no.1. This statement is not disputed by the respondent no.2.

5. Respondent No.2 has filed affidavit-in-reply dated 7th March, 2017 to the present petition. In the said affidavit-in-reply she has stated that the dispute between herself and the petitioner No.1 has been settled amicably and the parties have agreed to take customary divorce. Respondent No.2 has further stated that petitioner no.1 has deposited an amount of Rs.3,50,000/- in the Family Court at Bandra, Mumbai, by way of permanent alimony.

6. Learned Counsel for the petitioners, on instructions, states that the petitioner no.1 has no objection if the said amount is withdrawn by the respondent no.2.

7. In the last para of the affidavit-in-reply, the respondent No.2 has given her no objection for quashing of the proceedings of the subject criminal case.

8. Respondent No.2 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has understood the contents thereof and has no objection if

the proceedings of the subject criminal case are quashed and set-aside, since the dispute between them is amicably settled. She also stated that she is giving no objection for quashing the said proceedings, out of her free will and without there being any pressure or coercion.

9. In these circumstances and especially in view of the law laid down by the Apex Court in the case of ***B.S.Joshi versus State of Haryana AIR 2003 SC 1386***, we are of the view that quashing of the criminal proceedings would be in the interest of the parties. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the proceedings of the subject criminal case are required to be quashed and set-aside.

10. Writ Petition, is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

(REVATI MOHITE DERE, J.)

(RANJIT MORE, J.)