

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.542 OF 2017

Mr.Subham Vinod Kedia and Others. .. Petitioners
Vs
State of Maharashtra and Another. .. Respondents

—
Ms. Razia Badruddin Shaikh for the Petitioners.
Shri N.B. Patil, APP for the Respondent No.1.
Shri Rushil Mehta for the Respondent No.2.
—

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 2ND MARCH 2017

PC.

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 first Petitioner and the second Respondent are the husband and wife. The second and third Petitioners are parents of the first Petitioner and the fourth Petitioner is the sister of the first Petitioner.

3. 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 498A, 406, 323, 504 and 506 read with 34 of the Indian Penal Code.

4. In the Petition No.A-2057 of 2016 filed by the first Petitioner against the second Respondent before the Family Court at Bandra, Mumbai, on 22nd December 2016, the said parties arrived at a settlement before the Marriage Counsellor of the Family Court. A true copy of the said settlement signed by the first Petitioner and the second Respondent has been annexed to the Petition. In terms of the settlement recorded therein, the first Petitioner has deposited a cheque dated 7th March 2017 in the sum of Rs.5 lakhs with the Family Court.

5. The second Respondent has filed an affidavit dated 30th January 2017 accepting that there was a compromise arrived at between the first Petitioner and the second Respondent on 22nd December 2016 before the Family Court at Bandra, Mumbai. In terms of Clause 14 of the said consent terms, she has agreed for quashing the First Information Report.

6. The learned counsel appearing for the Petitioners and the learned counsel appearing for the second Respondent state that the

pending Petition has been converted into a Petition under Section 13B of the Hindu Marriage Act, 1955 and the same is fixed on 4th March 2017. The first Petitioner and the second Respondent through their respective learned counsel undertake to the Court that they will not withdraw their respective consent for grant of a decree of divorce under Section 13B of the Hindu Marriage Act, 1955.

7. In view of the complete settlement of the matrimonial dispute as reflected from the consent terms, continuation of the criminal proceedings based on the matrimonial dispute will cause undue harassment to the first Petitioner and the second Respondent. Therefore, this is a fit case to exercise power under Section 482 of the CrPC.

8. Accordingly, we pass the following order.

ORDER :

- (a) The undertakings of the first Petitioner and the second Respondent recorded above are accepted;
- (b) Rule is made absolute in terms of prayer clause (A), which read thus:

“(A) That this Hon'ble Court be pleased to quash the First Information Report being FIR No.C.R.No.127/2016, lodged by the Respondent No.2 with the Vile Parle Police Station.”

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)