

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 185 OF 2017

Mr.Aurko Bhattacharya & Anr.

...Applicants

Versus

The State of Maharashtra & Ors.

...Respondents

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Ms.Nuzhat Mehboob Shaikh for the Applicants.

Mr.N.B.Patil, APP for the Respondent Nos. 1 and 3.

Ms.Anjali Shukla for the Respondent No.2.

Mr.Andher, PSI, Park Site Police Station, Mumbai is present.

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

DATED: 22ND FEBRUARY 2017

P.C.:

1. Rule.

2. Mr. Patil, learned APP appearing for the first and third Respondents waives service. Mr. Shukla, learned counsel waives service for the second Respondent.

3. We are informed that the first Applicant and second Respondent are personally present in the Court. An affidavit of the second Respondent is tendered across the Bar. The learned APP, on instructions of Shri Andher, PSI, Park Site Police Station, Mumbai states that the said officer identifies the second Respondent as the first informant in this case.

4. The prayer in this application under section 482 of the Code of Criminal Procedure, 1973 (for short Cr.P.C.) is for quashing the First Information Report registered for the offences punishable under section 498A read with section 34 of the Indian Penal Code. The first Applicant and second Respondent are husband and wife. The second Applicant is the mother-in-law of the first Applicant. The parties have placed reliance on the Consent Terms signed by the first Applicant and the second Respondent before the Marriage Counsellor in Petition No. A-1147 of 2016 filed by the first Applicant pending in the Family Court at Bandra. Settlement of their matrimonial dispute has been recorded in the said Consent Terms, which record that the parties have decided to take divorce by mutual consent. In terms of clause 4 of the Consent Terms, the first Applicant has deposited a sum of Rs. 25 lacs with the Family Court at Bandra. The receipt dated 30th January 2017 is annexed to the application.

5. The learned counsel appearing for the first Applicant and the learned counsel appearing for the second Respondent state that the pending Petition before the Family Court at Bandra, Mumbai has already been converted into a Petition under section 13-B of the Hindu Marriage Act, 1955 and that same is fixed today.

6. In view of the settlement incorporated in the said Consent Terms, in the affidavit filed by the second Respondent, she has recorded no objection for quashing the First Information Report. Both the first Applicant and second Respondent through their respective counsel state that they will not withdraw their consent for passing a decree under section 13-B of the Hindu Marriage Act, 1955. Perusal of the First Information Report shows that it is the matrimonial dispute between the first Applicant and the second Respondent which led to the registration of the impugned First Information Report. Now, there is a complete settlement of the matrimonial dispute. Therefore, the continuation of the criminal proceedings will cause undue hardship to the parties. This is a fit case to exercise the power under Section 482 of the Code of Criminal Procedure, 1973 for quashing the First Information Report. Accordingly, we pass the following order:-

O R D E R

1) Rule is made absolute in terms of prayer clause (a) in Criminal Application No. 185 of 2017 which reads thus:

“a) This Hon'ble Court to quash and set aside FIR being C.R.No. 484 of 2016 registered with Parksite Police Station, Mumbai on such terms and conditions as this Hon'ble Court may deem fit and proper”.

7. All concerned to act on an authenticated copy of this order.