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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
WRIT PETITION NO.645 OF 2017

Vinay Kumar Sarojkumar Jaiswar
& Others ...Petitioners
vs.
State of Maharashtra & Others ...Respondents

Mr.Raviraj S. Gomare i/b Mr.Jitendra Kamble for the
Petitioners
Ms R.M.Gadhvi, Addl.P.P for the respondent No.1
Ms Sheena Chetan Patil for respondent No.2

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : MARCH 16, 2017

P.C.:

1 Rule. Learned APP waives service for the first respondent. The learned counsel for the second respondent waives service. 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 'CrPC') is for quashing the first information report at the instance of the second respondent under section 498-A, 406 read with section 34 of the Indian Penal Code. The first petitioner and the second respondent are husband and wife. In pending petition in the Family Court filed by the husband against the wife, consent terms were filed on 19th May 2016. By the consent terms, the parties agreed

to take divorce by mutual consent. Agreed amount of Rs.4,00,000/- by way of permanent alimony to the second respondent has been already deposited by the first petitioner with the Family Court.

3 The second respondent has tendered an affidavit recording confirming the settlement between the parties in terms of the consent terms filed before the Family Court. The learned counsel for the petitioners and the learned counsel for the second respondent on instructions of the first petitioner and the second respondent state that both of them will not withdraw their consent for passing a decree under section 13-B of the Hindu Marriage Act, 1955.

4 Now, there appears to be a complete settlement between the first petitioner and the second respondent of their matrimonial dispute. Hence, continuation of criminal proceedings arising out of matrimonial dispute will serve no purpose. Accordingly, this is a fit case to exercise power under section 482 of the CrPC for quashing the FIR.

5 Accordingly, we pass the following order:

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

(b) By an appropriate writ, order, direction issued by this Hon'ble Court initially the Respondent No.1 registered C.R.No.00/2015 on 9.3.2015 for offence allegedly under

Sections 498-A, 406, 34 IPC and same was transferred to R.A.K. Marg Police Station but the Respondent No.2 made Application to the Deputy Commissioner of Police Zone-4 and accordingly C.R was transferred to the Respondent No.1 and C.R.NO.185 of 2015 dated 16.4.2015 was registered for investigation and presently pending for investigation, may be quashed and set aside."

(ANUJA PRABHUDESSAI,J.)

(A.S.OKA,J.)