

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 815 OF 2016**

Sanjay Sinha

..Petitioner

v/s.

Sarita Sinha & Anr.

..Respondents

Mrs. Nishigandha mane i/b.Ms. Vandana for the Petitioner
Ms. Sarita Sinha ,Respondent No.1 present in person.
Mr. K.V.Saste, APP for the Respondent no.2 State.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 11TH JANUARY, 2017**

ORAL JUDGMENT (PER A.S.OKA, J.)

1. Rule. The learned APP waives service for the second Respondent. The first Respondent appearing in person waives service. The Petition is forthwith taken up for final disposal.

2. The prayer in this petition under Article 226 of the Constitution of India is for quashing the First Information Report registered at the instance of the second Respondent for the offences punishable under

Sections 498A, 323, 504 and 506 of Indian Penal Code. The Petitioner is the husband of the second Respondent. The second Respondent has filed an affidavit dated 26th July, 2016 in which she has stated that she is residing separately from the Petitioner from the year 2011. She has stated that she has received all her stridhan, ornaments and other articles from the Petitioner, and no article belonging to her is with the Petitioner. The affidavit records that a petition jointly filed by her and the petitioner for divorce by mutual consent is pending before the Civil Court. A copy of the said petition is annexed at page 25 of this petition.

3. The Petitioner, through his Advocate and the second Respondent who is present in the court, assure the Court that both of them will not withdraw the consent recorded in the said petition for grant of a decree of divorce by mutual consent.

4. As the second Respondent appears in person, the earlier Bench had directed the Investigating Officer to make necessary verification. Accordingly, the report dated 23rd October, 2016 has been submitted

by the Senior Inspector of Police, Kharghar Police Station. The report, along with the accompanying documents are taken on record and marked X-1 for identification. The report shows that the person who remained present on the last date and the person who is present today is the second Respondent. In fact, after taking copies of the Adhar Card and Pan Card from the second respondent, the police officer has recorded her statement, in which she has re-affirmed that she has filed an affidavit granting consent for quashing.

5. The matrimonial dispute between the Petitioner and the second Respondent led to the registration to the offence. Now, there is a complete settlement of the matrimonial dispute as reflected from the affidavit of the second Respondent. Therefore, continuation of the matrimonial dispute will cause undue hardship to both the Petitioner and the second Respondent. Therefore, this is a fit case to exercise powers of this Court under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973.

6. Accordingly, we pass the following order:

- (i) The proceedings of Regular Criminal Case No. 722 of 2012 pending in the Court of the learned Judicial Magistrate, First Class, Panvel, are quashed and set aside.
- (ii) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)