

pmw

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

CRIMINAL WRIT PETITION NO.829 OF 2017

Mayank s/o Jaigopal Gupta and Ors.

... Petitioners

Vs.

Neha wife of Mayank Gupta and Ors.

... Respondents

Mr. Ishwariprasad Bagaria for the Petitioners.

Mr. Siddharth Murarka for the Respondent No.1.

Mr. K.V. Saste, APP for the Respondent Nos.2 and 3.

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

DATE : 6th MARCH, 2017

PC.

. **Not on board. Taken on board.**

1 Heard the learned counsel appearing for the petitioners, the learned counsel appearing for the first respondent and the learned APP for the second and third respondents. Rule. The respondents waives service. Forthwith taken up for final disposal.

2 The first petitioner and the first respondent are husband and wife. The prayer in this Petition under Article 226 of the Constitution of India is for quashing the criminal proceedings for the offences punishable under Sections 498A, 406, 420 read with Section 34 of the Indian Penal Code. Charge sheet has been filed on the basis of

the First Information Report registered at the instance of the first respondent.

3 Our attention is invited to consent terms dated 12th January, 2017 filed in Petition No.A-264/2014 in the Family Court at Thane. The said Petition is filed by the first respondent against the first petitioner. Consent terms have been signed by both of them. The consent terms provide that parties have agreed to take divorce by mutual consent as the marriage has not been consummated. The first respondent has agreed to give consent for quashing the First Information Report. The learned counsel appearing for the petitioners on instructions of the first petitioner states that the first petitioner will not withdraw his consent recorded in the consent terms for obtaining divorce by mutual consent. The same is the statement made by the learned counsel appearing for the first respondent on instructions of the first respondent who is personally present in the Court.

4 The matrimonial dispute between the first petitioner and the first respondent was the root cause of the registration of the impugned FIR. As evidenced by the consent terms, now there is an overall settlement of the matrimonial dispute. Hence, continuation of criminal proceedings will cause undue harassment to both the parties.

The first respondent has filed an affidavit today consenting for quashing on the ground that there is aforesaid settlement between her and the first petitioner. Therefore, in the light of the decision of the Apex Court in the case of *Gian Singh Vs. State of Punjab*¹, this is a fit case to exercise power of quashing the criminal proceedings under Section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass the following order :-

ORDER

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

“(a) That this Hon'ble Court be pleased to quash the criminal proceedings initiated by the Respondent No.1 by lodging the FIR No.I-238 of 2014 dated 27th June 2014 for the offence punishable under Secs.498A, 406, 420 and 34 of IPC against the Petitioner Nos.1 to 5 and the criminal proceeding being RCC No.417 of 2015 filed by the Respondent No.2 being Charge-sheet No.153 of 2015 in pursuance to the registration of First Information Report No.I-238 of 2014 pending in the Court of Ld. Judicial Magistrate, First Class, Vashi, Belapur upon such terms and conditions as this Hon'ble Court may deem fit and proper.”

¹ (2012) 10 SCC 303

(ii) Accordingly, look out notices issued in connection with the case also stands quashed and set aside.

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

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)