

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.862 OF 2017

Rachit Mehta. .. Petitioner
Vs
State of Maharashtra and Another. .. Respondents
—
Ms. Devika Deshmukh i/b Shri N.V. Khaladkar for the Petitioner.
Ms.R.M. Gadhavi, APP for the Respondent No.1.
Shri Samarth Moray for the Respondent No.2.
—

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

DATED : 2ND MARCH 2017

PC.

1. Not on board. Taken on board.
2. Heard learned counsel appearing for the Petitioner, the learned APP for the first Respondent and the learned counsel appearing for the second.
3. Rule. The learned APP waives service for the first Respondent. The Advocate for the second Respondent waives service. Forthwith taken up for final disposal.

4. 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 325, 323, 504 and 506 of the Indian Penal Code. The prayer is also for quashing N.C. Case registered at the instance of the second Respondent. The petitioner and the second Respondent are the husband and wife. In the Petition No.A 373 of 2016 filed by the second Respondent in the Family Court at Bandra, Mumbai, the Petitioner and the second Respondent arrived at the consent terms. The consent terms duly signed by both of them dated 9th February 2017 were filed in the Family Court. In terms of the consent terms, a sum of Rs.15 lakhs has been deposited by the Petitioner with the Family Court. The learned counsel appearing for the Petitioner and the second Respondent state that in terms of the settlement, a decree of divorce has been passed by the Family Court on 9th February 2017, but a copy of the judgment is not available. There is an affidavit filed by the second Respondent accepting that there is a settlement of the matrimonial dispute and that the consent terms were filed before the Family Court.

5. The consent terms filed before the Family Court record a complete settlement of the matrimonial dispute and now the marriage between the Petitioner and the second Respondent has been dissolved

by a decree of divorce by consent under the Special Marriage Act, 1954. Therefore, continuation of the proceedings arising out of the matrimonial dispute will serve no purpose. The chances of conviction are very bleak. Moreover, continuation of the criminal proceedings will cause undue harassment to both the parties.

6. Therefore, in view of the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹, this is a fit case to exercise the power under Section 482 of the CrPC.

7. Accordingly, we pass the following order.

ORDER :

(a) Rule is made absolute in terms of prayer clause (a), which read thus;

“(a) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of certiorari or any other appropriate Writ, direction or order quashing the FIR No.664 of 2015 registered by the Respondent No.1 through Bandra Police Station on 24th October, 2015 under section 323, 325, 504 and 506 of the IPC along with the N.C. 3697/2015 dated 22nd October, 2015 and any other complaints in view of the compromise arrived at between the Petitioner and Respondent No.2 by way of Consent Terms dated 9th February, 2017.”

(b) The Family Court at Bandra, Mumbai, will permit the second Respondent to withdraw a sum of Rs.15 lakhs

1 (2012) 10 SCC 303

deposited by the Petitioner in the Family Court at Bandra, Mumbai, on production of an authenticated copy of this judgment and order;

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)