

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

CRIMINAL WRIT PETITION NO. 1360 OF 2017

1 Mr. Mithalesh @ Mitesh Gangaram
Kanojia @ Dhobi & 3 Ors. ... Petitioners

Vs

1 The State of Maharashtra & Anr. ... Respondents

Mr. Manish Rai or the Petitioners.

Mrs. S.V. Sonawane, APP, for the Respondent No.1-State.

Mr. Dharmendra Tiwari for the Respondent No.2.

***CORAM : S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.***

THURSDAY, 6TH APRIL, 2017

P.C. :

1 The criminal complaint and which is sought to be quashed is now pending on the file of the learned Metropolitan Magistrate, 29th Court, Bhoiwada, Mumbai, C.C. No. 727/PW/2016 arising out of C.R. No.4 of 2014 registered in the Wadala T.T. Police Station, Mumbai.

2 The FIR alleges offences punishable under sections 406, 498-A, 34, 506 of the Indian Penal Code.

3 The FIR is registered pursuant to the statement of the second respondent – complainant. She has narrated as to how post her marriage which was solemnized with the petitioner No.1 on 18th November, 2011, she has moved into the family of her husband. Thereafter, there were disputes and differences and which arose out of some demands made. She has levelled serious allegations of harassment.

4 It is in these circumstances that a request is made to quash the criminal proceedings on account of a mutual consent allegedly tendered in writing before the Family Court at Bandra, Mumbai. Petition No.A-569 of 2014 seeks a decree of divorce by mutual consent. It is stated that the petitioners and the original complainant – respondent No.2 are residing separately. They are residing separately since July, 2012. There are no issues from the wedlock.

5 Now there are no grievances and pertaining to

exchange of jewellery and other articles. The consent terms which are filed in the Family Court at Bandra, Mumbai, envisage withdrawal of criminal proceedings. The parties are aware that the criminal prosecution cannot be withdrawn. That is why this petition invoking this Court's inherent jurisdiction.

6 Since both sides state that the dispute is essentially a private one arising out of matrimonial discord and strained relationship, but the consent terms being acceptable to both sides, that we should quash the proceedings. There is an affidavit of the original complainant - respondent No.2. This affidavit was tendered in the morning session. It is signed by the complainant - respondent No.2 in Hindi.

7 She is present in Court. In the morning session, we were not sure and confident that she has understood the contents of this affidavit tendered on her behalf and in which all the statements are attributed to her. That is because she was unable to speak in English. She, having stated before us that she is familiar and comfortable with Hindi language, we sent this affidavit to the Interpreter and who would call her in the office so

as to explain and interpret the contents of this affidavit. The complainant-respondent No.2 was directed orally to appear before this Interpreter.

7 Accordingly, she has appeared before the Interpreter. The contents of this affidavit were interpreted and explained to her in Hindi language. She, having understood them with all legal consequences, request is made by both sides that, by consent, the writ petition be allowed.

8 In the light of the fact that it is a matrimonial dispute and which is settled; consent being granted freely even by the wife to quash the proceedings, that will not affect the larger public interest that we proceed to allow this writ petition. Rule is made absolute in terms of prayer clauses (a) and(b).

PRAKASH D. NAIK, J.

S.C. DHARMADHIKARI, J.