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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1393 OF 2017.

Pankaj Dinanath Dubey and ors ... Petitioners.
V/s.
Mrs. Sneha Pankaj Dubey and ors ... Respondents

Mr. Mauzzamma M. Ansari, for the Petitioners.
Mrs. A. S. Pai, APP for the Respondents State.
Mrs. Sneha Dube respondent No.1 present in person.

CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.

DATE : 27th NOVEMBER, 2017.

P.C. :

1] Not on board. Upon mentioning, taken on supplementary board.

2] Heard learned counsel for the petitioner, respondent No.1, who is personally present in the Court and learned APP.

3] The petition is filed for quashing and setting aside the proceedings in Criminal case baring C..C. No.1536/PW/2014, pending on the file of learned Metropolitan Magistrate, Railway Mobile Court, at Andheri, arising out of C.R. No.440 of 2014, registered at the instance of respondent No.1, with Andheri Police Station, for the

offence punishable under Sections 498A, 406, 323, 504, 506 (2) read with 34 of the Indian Penal Code.

4] The petitioner No.1 and respondent No.1 got married on 25.5.2009. Rest of the petitioners are the relations of the petitioner No.1.

5] The matrimonial dispute between the parties gave rise in filing Civil as well as Criminal Cases. Subject Criminal Case is one of them.

6] With the intervention of well-wishers and elders in the family, they have settled their dispute amicably and accordingly filed consent terms before the Family Court at Bandra in Petition No.F-161 of 2017.

7] In terms of understanding arrived at in the Consent Terms, parties have also obtained divorce by mutual consent.

8] Now the parties approached this Court for quashing the proceedings of subject criminal case by mutual consent.

9] Respondent No.1, accordingly has filed affidavit dated 08.11.2017. In paragraph No.18 she has given now objection to quash the proceedings of the Criminal Case. Respondent No.1 is personally present in the Court. Her identity is verified with the assistance of learned APP, on the basis of Adhar Card, copy of which is taken on record.

10] On specific query, she stated she has gone through the petition and the affidavit and admits that she understood the contents therein and she has no objection to quash the proceeding of subject criminal case.

11] The Apex Court in ***B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386]*** *has* held that in the event of settlement of matrimonial dispute, the FIR under Section 498A can be quashed, even though the said offence is not compoundable in terms of Section 320 of the Cr.P.C. The relevant observations of the Apex Court are contained in Paras 14 and 15 which are reproduced herein below:

> *"14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.*
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> *15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the*

powers under Section 482 of the Code."

12] Accordingly, the present petition is allowed in terms of prayer clauses (a). The Criminal case baring C..C. No.1536/PW/2014, pending on the file of learned Metropolitan Magistrate, Railway Mobile Court, at Andheri, arising out of C.R. No.440 of 2014, registered at the instance of respondent No.1, with Andheri Police Station, for the offence punishable under Sections 498A, 406, 323, 504, 506 (2) read with 34 of the Indian Penal Code. is hereby quashed and set aside.

13] Petition is disposed of in above terms.

[DR.SHALINI PHANSALKAR-JOSHI, J.] **[RANJIT MORE, J.]**