

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 395 OF 2017

Mr. Junaid Ahmed Pathan & Ors. ... Applicants
Vs.
Mrs. Huma Junaid Pathan & Anr. ... Respondents

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Mr. Pradeep Dube a/w Mr. Ashok Mishra i/b. Solicis Lex for the
Applicant.

Huma Akhtar Potrick (Mrs. Huma Junaid Pathan)-Respondent
No.1 present in person.

Mr. N. B. Patil, APP for Respondent No.2-State.
for Respondent No.2 in both applications.

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

DATE : APRIL 28, 2017.

P.C. :

1. The consent terms which were filed on record of this
Application proceed on the footing that both sides have resolved,
and amicably, the dispute and difference essentially arising out of a
matrimonial relationship.

2. The criminal law is set in motion at the instance of the 1st
respondent.

3. After the F.I.R. was registered on 10th December, 2016, the parties have resolved their disputes. The marriage of the 1st petitioner and the 1st respondent was solemnized on 22nd April, 2016. There are no issues from the wedlock. Respondent no.1 states that she has no objection for quashing of this F.I.R. She states that she has withdrawn the application seeking maintenance filed before the Family Court, Bandra, invoking Section 125 of the Criminal Procedure Code. She stated that the 1st petitioner and she would take steps to obtain a divorce in accordance with the Muslim Personal Law. For the present, they have decided to put an end to their matrimonial relationship. All allegations against each other have been withdrawn. There is nothing which is due and payable, either in terms of money, or articles of jewelery or property. When these consent terms were tendered, we asked both sides to appear before the Registrar (Judicial), who was to ascertain from them, and particularly from the 1st respondent, whether there is any pressure, force or undue influence or anything including a fraud which vitiates her consent. Further, we were anxious to know whether she understands the consequences flowing from the terms. Finally, we were not satisfied because she

has been appearing in person and unaware, as one can be, of legal proceedings. It would be fair, just and proper that the Registrar (Judicial) ascertains from her whether she is agreeable to the request as made in the Writ Petition based on her consent and as recorded in the consent terms. The consent terms were duly explained and interpreted to her and having known the consequences therefrom, and a statement attributed to her that she is ready and willing for a divorce, that the Registrar (Judicial) was requested to do the needful. He has submitted a report and which indicates that due care and caution has been exercised in taking these terms on record. All the above has been ascertained and confirmed.

4. In the light of the report of the Registrar (Judicial) and our independent satisfaction as well, we allow this Criminal Application. The subject F.I.R. is quashed.

(PRAKASH D. NAIK, J.)

(S. C. DHARMADHIKARI, J.)