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

CRIMINAL WRIT PETITION NO.1386 OF 2016

Upendranath Chandrabhushan Chaube & Ors. ... Petitioners
Vs.
State of Maharashtra and Anr. ... Respondents

Mr. Omprakash Dubey for the Petitioners.
Mr. K.V. Saste, APP for the Respondent No.1.
Ms. Surabhi Singh for the Respondent No.2.

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

DATE : 19th JANUARY, 2017

PC.

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

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

2 The first petitioner and the second respondent are husband and wife. The prayer in this Petition under Article 226 of the Constitution of India is for quashing the criminal case arising out of the FIR registered at the instance of the second respondent for the offences

punishable under Sections 498A, 406, 494 read with Section 34 of the Indian Penal Code.

3 The second respondent has filed an affidavit placing on record consent terms arrived at between the first petitioner and herself in Petition No.E-517 of 2006 pending in the Family Court. We have perused the consent terms. The consent terms show that parties have agreed to settle all the subsisting disputes and have agreed to apply for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. In fact, in the affidavit of the second respondent in paragraph 4, it is stated that the Petition for divorce has been already filed which is fixed on 7th February, 2017 for final hearing before the Family Court.

4 The first petitioner and the second respondent who are personally present in the Court through their respective counsel undertake to the Court not to withdraw their consent for grant of decree of divorce under Section 13B of the Hindu Marriage Act, 1955.

5 The second respondent has recorded her no objection for quashing the proceedings. As stated earlier, the consent terms record the complete settlement of the matrimonial dispute between the first

petitioner and the second respondent. Therefore, continuation of the criminal proceedings will cause undue hardship to the parties. Therefore, in the light of the law laid down in the case of Gian Singh Vs. State of Punjab¹, this is a fit case to exercise powers under Section 482 of the Criminal Procedure Code, 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 all proceedings in CC No.2317/PW/2013 pending on the file of the Learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, arising out of the First Information Report being FIR No.320/2012, lodged by the Respondent No.2 with the M.I.D.C. Police Station.

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

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)

¹ (2012) 10 SCC 303