

CRIMINAL WRIT PETITION NO.2038 OF 2017

Amit Dipak Nachankar & Anr. Petitioners
versus
The State of Maharashtra & Anr. ... Respondents
.....

- CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.
DATE : 11th JULY, 2017.**

P.C. :

1. Heard the learned counsel for the petitioner, respondent No.2 and learned APP.
2. The petition is filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside Criminal Case bearing No.291/PW/2013 pending on the file of learned Metropolitan Magistrate's 68th Court, Borivali, Mumbai, arising out of C.R.No.121/12, registered with Bangurnagar

Police Station, Mumbai at the instance of respondent No.2 for the offences punishable u/s 498-A, 406, 420, 494, 495 r/w 34 of the Indian Penal Code.

3. The petitioner No.1 and the respondent No.2 are the husband and wife. The petitioner No.2 is the father of the petitioner No.1. The matrimonial dispute between the parties gave rise to civil as well as criminal proceedings. The subject matter of the present petition is one of them.
4. Pending trial, the parties have settled their dispute amicably and accordingly filed consent terms in Family Court Appeal No.118/15. In terms of those consent terms parties got their marriage declared nullity. As per the said consent terms they have approached this Court for quashing the criminal proceedings by consent.
5. The respondent No.2 has filed an affidavit dated 11/07/2017. In paragraph No.6 she has given no objection for quashing and setting aside the subject criminal proceedings.
6. The respondent No.2 is personally present before the Court. On being questioned, she specifically stated that she has

gone through the affidavit and has fully understood the contents thereof and has no objection, if the subject proceedings are quashed and set aside. She has also stated that she is giving no objection for quashing the subject proceedings out of free will and without there being any pressure or coercion.

7. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **B.S. Joshi vs. State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the criminal proceedings would be in the interest of respondent No.2. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject criminal proceedings are required to be quashed and set aside. The petition is, accordingly, made absolute in terms of prayer clause (b) and is disposed off as such.

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)