

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

CRIMINAL WRIT PETITION NO.2218 OF 2016

Mr. Sumit Dhumal & Anr.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Mr. Samyak N. Gimekar i/b. Mr. Rajesh Katore for the
Petitioners.

Ms M.H. Mhatre, APP for Respondent No.1.

Mr. Rajesh A. More, for Respondent No.2.

**CORAM : A.S. OKA, AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 20th JANUARY, 2017.

P.C:-

Not on board. Taken on board.

2. Rule. The learned APP waives service for the Respondent No.1, The learned counsel appearing for the Respondent No.2 waives service. Forthwith taken up for final disposal. Prayer is for quashing the First Information Report lodged at the instance of the second Respondent for commission of offences under Sections 504, 509 read with 34 of the Indian Penal Code and Sections 66(C) and 66(D) of the

Information Technology Act. The first Petitioner and the second Respondent were husband and wife. Apart from the Petitioners, one Nagesh Kamble was also shown as accused.

3. The First Information Report was lodged on 18th December, 2013. It appears that a Petition was initially filed by the second Respondent for seeking divorce before the Family Court at Pune. The said Petition was converted by consent of the first Petitioner and the second Respondent into a Petition under Section 13(B) of the Hindu Marriage Act, 1955. By judgment and order dated 18th January, 2016 the learned Judge of the Family Court at Pune has dissolved the marriage between the first Petitioner and the second Respondent by a decree under Section 13 (B) of the Hindu Marriage Act. The terms and conditions on which parties agreed to resolve the matrimonial dispute have been set out in the Consent Petition. A copy of the Consent Petition as well as copy of the judgment are annexed to the Petition. The second Respondent had agreed to co-operate for quashing the impugned First Information Report. She also agreed to withdraw a case filed under the Protection of Women from Domestic Violence Act-2005.

4. The second Respondent has filed an affidavit reiterating the settlement between the parties and stating that the marriage with the first Petitioner has been dissolved by decree of divorce.

5. Perusal of the statement on the basis of which the impugned First Information Report was registered shows that it was an outcome of the matrimonial dispute between the first Petitioner and the second Respondent. Now there is a complete settlement of the matrimonial dispute and the parties have withdrawn the allegations made against each other. Therefore, continuation of criminal proceedings will cause undue harassment to the first Petitioner and the second Respondent. Therefore, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure, 1973. Accordingly, we pass following order.

6. Rule is made absolute in terms of prayer clauses (A) and (B), which read thus :

A) The F.I.R. bearing No.3238/2013 registered at Bharti Vidyapit Police Station u/s 509, 504 of the IPC and 66A, 66C, 66D and Information Technology Act may kindly be quashed and set

aside.

B) The charge-sheet arising out of C.R. No.3238/2013 of Bharti Vidyapith Police Station bearing R.C.C. No.2692/2014 pending of the Court of J.M.F.C. Court No.4 may kindly be quashed and set aside.

7. All concerned to act upon authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)