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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2633 OF 2015**

Mr. Gabriel Baby Ampithara	... Petitioner
Vs.	
State of Maharashtra and Ors.	... Respondents

Mr. Niranjan Mundargi a/w Mr. Chandansingh Shekhawat i/by ALMT
Legal for the Petitioner.

Mr. N.B. Patil, APP for the Respondent Nos.1 and 2.

Mr. Prashant B. Pawar and Abhijeet Sawant for the Respondent No.3.

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

DATE : 3rd FEBRUARY, 2017

PC.

1 Notice for final disposal has been already issued by order
dated 24th October, 2016.

2 The Petitioner and the third respondent were husband and
wife. The prayer in this Petition under Article 226 of the Constitution of
India read with Section 482 of the Code of Criminal Procedure, 1973
(for short “Cr.PC.”) is for quashing the FIR registered at the instance of
the third respondent for the offence punishable under Section 498A
read with Section 34 of the Indian Penal Code. The FIR was registered

on 8th February, 2006. The third respondent has today tendered an affidavit dated 1st February, 2017 in which she has accepted that the learned Judge of the Family Court at Thane by judgment and decree dated 29th December, 2008 has dissolved the marriage between her and the petitioner. The said affidavit discloses that she has remarried in the year 2013 and since then she has been happily residing with her husband. She has also disclosed that she has two children.

3 In the same affidavit, in paragraph 4, she has set out the terms and conditions on which the petitioner and the third respondent have amicably settled their dispute. There is an affidavit tendered by the learned counsel appearing for the petitioner affirmed on 24th January, 2017 before the Notary Public in State of Texas, U.S.A. In paragraph 3 of the said affidavit, the petitioner has set out the same terms which the third respondent has set out in paragraph 4 of her affidavit. In paragraphs 4 to 6, he has accepted the said terms and conditions and has given necessary undertakings.

4 Two years after the date of registration of the FIR, the marriage between the petitioner and the third respondent was dissolved by a decree of divorce. Thereafter, the petitioner and the third respondent have happily remarried. Now, they have agreed to the terms

and conditions of settlement. In terms of the said terms and conditions, the petitioner has given necessary undertakings.

5 Hence, continuation of criminal proceedings will be unjust. Accordingly, we find that this is a fit case to exercise power under Section 482 of the Code of Criminal Procedure, 1973.

6 Hence, we pass the following order :-

ORDER

(i) Rule is made absolute in terms of prayer clause (a) which reads thus :-

(a) The Hon'ble Court be pleased to issue notice to the police of Naupada Police Station and considering record and submission the FIR bearing No.76/2007 U/sec, 498 A r/w 34 of IPC pending against the applicant may kindly be quashed.

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

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)