

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2514 OF 2017**

Amitabh Das & Anr

..Petitioners

Vs.

Rohini Amitabh Das & Anr

..Respondents

Mr. H. G. Ambelal for the Petitioners

Mr. Uttam Hathi i/b Brus Chambers for the Respondent No.1

Mr. K. V. Saste Addl P. P. for the Respondent State

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 7th AUGUST, 2017**

PC.

1 At the outset, the Learned Counsel appearing on behalf of the Respondent seeks leave to correct the case number of the Criminal Case in the above Criminal Writ Petition, as well as in paragraph 3 of the Affidavit in reply dated 10-7-2017 filed by the Respondent No.1, giving her no objection for the FIR in question being quashed. Leave granted. Amendment to be carried out forthwith.

2 By the above Writ Petition filed under Article 226 of the Constitution of India and Section 482 of the Criminal Procedure Code, the Petitioners seek quashing and setting aside of the FIR now registered as case No. CC/764/2016, pending on the file of the Learned 28th Metropolitan Magistrate, Esplanade, Mumbai. The said FIR has been registered under

Sections 498A, 406, 323 and 34 of the IPC at the L. T. Marg Police Station, Mumbai. The FIR is an outcome of the matrimonial disputes between the Petitioner No.1 and the Respondent No.1 herein who were husband and wife. The parties have filed the consent terms in the matrimonial proceedings being Petition No.A-723/2016, which was filed by the Petitioner No.1 for divorce. The said consent terms were filed on 16-6-2017. In the context of the relief sought in the present Petition, paragraph 5(d) of the consent terms assumes importance and is reproduced hereinunder:

“5(d) The Respondent shall file her 'no objection' in form of an affidavit to the Petitioner's Petition for quashing of CC/764/2016 filed by L T Marg Police Station before the Learned Metropolitan Magistrate at 28th Esplanade Court before the Hon'ble High Court, Bombay.”

3 In terms of the aforesaid paragraph 5(d), the Respondent No.1 has filed an affidavit in the form of her no objection to the FIR being quashed. In paragraph 3 of the said affidavit, it has been stated by her to the following effect :

“3. I humbly say that I have no objection if CC/764/2016 pending on the file of the learned 28th Metropolitan Magistrate, Esplanade, Mumbai, arising out of F.I.R. 497/2015 L. T. Marg Police Station are quashed and set aside, thus prayer clause A of the Criminal Writ Petition is granted, as the Petitioner No.1 and myself have filed the said consent terms to obtain divorce by mutual consent as we have decided to go our separate ways peacefully by ending our marital ties mutually under 13B of the Hindu Marriage Act.”

4 Hence the aforesaid facts disclose that the parties have amicably resolved their dispute. The complaint discloses allegations which are personal in nature. The offence alleged cannot be said to have any impact on the society. In view of the judgment of the Apex Court in the matter of **Madan Mohan Abbot Vs. State of Punjab**¹ no useful purpose would be served by keeping the proceedings pending. In so far as quashing the FIR is concerned in the light of the judgment of the Apex Court in the case of **Narinder Singh Vs. State of Punjab**² there is no impediment in quashing the FIR. In our view, therefore, the reliefs sought by the Petitioners are required to be granted. The Petition is accordingly allowed and made absolute in terms of prayer clause (b). The Writ Petition is accordingly disposed of.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

1 (2008) 4 SCC 582

2 (2014) AIR SCW 2065