

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3015 OF 2017

Amit Bhujanga Shetty and Ors.Petitioners
V/s.
The State of Maharashtra & Anr.Respondents

Ms. Trupti A. Bharadi, Advocate for Petitioners.
Mr. J.P.Yagnik, APP for the Respondent-State.
Mr. Vishal Katkar, Advocate for Respondent No.2.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 12TH SEPTEMBER, 2017.

PC. :-

The above Petition seeks quashing of the proceeding being Criminal Case No.406 of 2017 pending before the learned J.M.F.C., Kalyan. The said case has arisen out of C.R.No.416 of 2016 registered with M. Phule Chowky Police for the offences punishable under Sections 498A, 377, 406, 420, 494, 495, 504, 506(II), 323 read with Section 34 of the IPC. The Petitioner No.1 and the Respondent No.2 are husband and wife and the FIR has been registered by the First Informant, i.e., the Respondent No.2. The filing of the FIR is on account of the matrimonial disputes between the parties. The First Informant, i.e., the Respondent No.2 has filed

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an affidavit dated 2.8.2017 affirmed in this Court. In the context of the reliefs sought in the present Writ Petition, it is required to be noted that in paragraph 3, the affiant has stated that the parties would be obtaining divorce by mutual consent and as per the terms and conditions set out for obtaining divorce by mutual consent, the Petitioner No.1 has paid her Rs.20 Lakhs as the amount towards full and final settlement of her claim. It is further stated that it is imperative to quash the FIR so that both the parties can mutually seek divorce. It is lastly stated in paragraph 5 that the affiant does not have any objection if the prayers made in the above Petition are made absolute.

2 Hence, the reading of the said affidavit filed by the Respondent No.2 discloses that the parties have amicably arrived at a settlement as a consequence of which they are seeking quashing of the criminal proceedings pending before the learned JMFC, Kalyan being Criminal Case No.406 of 2017.

3 The Respondent No.2, i.e., First Informant is personally present in the Court. She is identified by the learned counsel Mr. Vishal Katkar. She is also identified by her PAN Card bearing No.CWZPS5997M. When put in the box and queried, she states that the parties have arrived at a settlement as a consequence of which

she has received an amount of Rs.20 Lakhs from the Petitioner No.1 and that the parties are to obtain divorce by mutual consent. She further states that the affidavit dated 2.8.2017 is hers and that she has filed the said affidavit of her own free will and volition and that the contents of the said affidavit are acceptable to her. In the light of the aforesaid facts and having regard to the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466 that though the offence alleged is one under Section 495 of IPC amongst other offences, no useful purpose would be served if the proceedings are continued when the First Informant herself is reluctant to do so on account of the settlement between the parties. Hence, there is no impediment in quashing the subject proceeding. The Writ Petition is accordingly allowed and made absolute in terms of prayer clauses (b) and (c).

4 The Petitioners to pay costs of Rs.25,000/- to be deposited with the Tata Memorial Hospital, Mumbai within a period of six weeks from date and receipt to be obtained and to be filed in the Registry.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)