

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3236 OF 2017

Haresh C. Bhanushali & Ors.

....Petitioners

V/s.

The State of Maharashtra
and anr.

....Respondents

* * * * *

Mr. Y.A. Rajgor i/by. Mr. Harendra Rajgor, Advocate for
the petitioners.

Mr. K.V. Saste, Additional Public Prosecutor for the State,
respondent no.1.

Mr. D.S. Aahierey, Advocate for respondent no.2.

CORAM :-

R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :-

16TH AUGUST, 2017.

P.C. :-

1. By the above petition, the petitioner seeks
quashing of the FIR No. 163 of 2017 registered with Tilak
Nagar Police Station, Mumbai for the offences punishable

under Sections 498A, 325, 406 read with Section 34 Indian Penal Code. The said FIR has arisen out of the matrimonial dispute between petitioner no.1 and respondent no.2 who were the husband and wife. Respondent no.2 had filed a petition for divorce in the Family Court on the ground of cruelty. In the said petition, the parties were referred to mediation, as a result of which, the parties amicably resolved their dispute and agreed to obtain divorce by mutual consent. Thereafter, the said Marriage Petition being No. 1809/17 was converted into one for divorce by mutual consent as a result of which, consent terms for divorce by mutual consent were filed by the parties which are on page 32 running into four clauses. The first informant i.e. respondent no.2, wife has also filed Affidavit dated 7th August, 2017 which is annexed to the above petition at page 37. Insofar as, consent terms are concerned, para-2 of the consent terms is material and is reproduced hereunder :-

“2. Both the Petitioners have exchanged their own belonging and have received back all their personal belongings clothes, jeweler, Streedhan and other articles received by them at the time of marriage. The Petitioner say and submit that it has been settled among themselves regarding maintenance and alimony and now no one has any claim over each other.”

2. Insofar as, Affidavit is concerned, paras-5 and 8 of the said Affidavit are material and are reproduced hereunder :-

“5. I say that I have settled all disputes with the Petitioners herein amicably and there is no dispute anymore with the Petitioners therefore the Petitioner No.1 and I have jointly filed mutual Divorce Petition u/s. 13/B of Hindu Marriage Act for divorce by mutual consent before the Honourable Family Court, Bandra, Mumbai.

8. I say that, I do not want to pursue the said complaint. I further say that the Petitioners and I have settled all dispute and differences between us therefore I do not wants to peruse the said complaint which was filed under the

misunderstanding, I have no Objection, if the said complaint is quashed i.e. C.R. No. 163/2017 with the Tilak Nagar Police Station, Mumbai.”

3. In view of the consent terms and the said Affidavit, it can be concluded that the parties have settled their dispute amicably. Respondent no.2 is personally present in the Court. She is identified by the Learned Counsel Mr. Dayanand S. Aahierey, appearing for her and she is also identified by her Aadhar Card bearing No. 9322 5394 7753. When put in the box and queried, the respondent no.2 states that she has filed the said Affidavit dated 19th July, 2017 and that the signature on the said Affidavit is hers. The same has been done by her in view of the consent terms arrived at between the parties.

4. In view of the aforesaid and in the light of the judgments of the Apex Court in the case of **Gian Singh V/s. State of Punjab, reported in (2012) 10 SCC**

303 and Narinder Singh V/s. State of Punjab,
reported in (2014) 6 SCC 466, there is no
impediment in quashing the proceedings. No useful
purpose would be served by keeping the proceedings
pending. Hence, the petition is allowed and made
absolute in terms of prayer clause (a).

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)