

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

CRIMINAL APPLICATION NO. 912 OF 2015

Girish Jawahar Bora & Ors. ... Applicants
V/s.
The State of Maharashtra and Anr. ... Respondents

Mr.Omkar Gopal Nagwekar for the Applicants.
Mr.J.P. Yagnik, APP for the State.
Mr.Sanjay Gawde i/b. Shree & Co. for Respondent No.2.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 22nd FEBRUARY, 2017.

P.C. :

1] Heard Mr.Nagwekar, learned counsel for the Applicants,
Mr.Yagnik, learned APP for the State and Mr.Gawde, learned counsel
for Respondent No.2.

2] This petition is filed for quashing and setting aside the
proceedings of the Criminal Case No.411 of 2015 pending with the
learned Judicial Magistrate First Class, Thane. The said proceedings
arises out of the FIR bearing No.I-272 of 2013 registered at the
instance of Respondent No.2 for the offence punishable under
Sections 498A, 406 read with Section 34 of the Indian Penal Code.

Mr.Nagwekar, learned counsel for the Applicants has invited our attention to the page 41 and 42 of the compilation and submits that the dispute between the Applicant No.1 and Respondent No.2 was amicably settled and therefore, on the basis of the same, the proceedings initiated on the basis of the said FIR cannot be allowed to be continued.

3] The documents relied upon by the learned counsel for the Applicants show that the Applicant No.1 have earlier filed petition against the Respondent No.2 for divorce and Respondent No.2 also have filed proceedings under Section 9 of the Hindu Marriage Act for Restitution of the conjugal rights. Both the proceedings were settled by the parties by giving pursis, which is at page 41 of the compilation and the said pursis discloses that dispute was settled by ignoring the allegations made against each other.

4] We have also perused the said FIR. In FIR Respondent No.2 has alleged that the Applicants have committed an offence punishable under Section 498A, 406 read with Section 34 of IPC from the year 2004 to till date of filing the FIR. Thus, the allegations are for the period subsequent to the settlement of the earlier proceedings between the parties. The Applicants on the basis of

earlier settlement, cannot contend that the FIR and criminal proceedings is required to be quashed and set-aside, especially when the allegations are for the period subsequent to the settlement of the earlier proceedings. Since the FIR, *prima facie*, discloses the commission of cognizable offence by the Applicants, the veracity of the allegations cannot be examined at this stage.

5] We are, therefore, not inclined to entertain this application and hence, this application is dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]