

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

WRIT PETITION NO.4073 OF 2017

Ramniklal Nanji Gala & Ors.

....Petitioners

Versus

The State of Maharashtra & Anr.

....Respondents

Ms. Shraddha Waval for the petitioners.

Mrs. M.R. Tidke, APP for the State.

Ms. Heena Shaikh for resp. no.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 15th DECEMBER, 2017

P.C. :

1. The petitioners herein who are the accused in Criminal Case No.266/SW/2014 on the file of Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai, have challenged the order dated 19th April, 2014 whereby the learned Magistrate has ordered to issue process under sections 323, 504, 506(ii) r/w. Section 34 of the Indian Penal Code.

2. The respondent no.2 is the husband of petitioner no.2 and the petitioner nos.1 and 3 are the parents of petitioner no.2 and petitioner no.4 is an employee of the petitioners. The matrimonial dispute between the petitioner no.2 and the respondent no.2 led to filing of the Criminal Case No.266/SW/2014. The learned Magistrate, upon considering the averments made in the complaint as well as the verification statement issued process under sections 323, 504, 506(ii)

r/w. Section 34 of the Indian Penal Code.

3. Ms. Shraddha Waval, learned counsel for the petitioners and Ms. Heena Shaikh, learned counsel for the respondent no.2 submitted that the parties have settled the matter amicably. They have further submitted that the respective parties have filed consent terms in the proceedings in M.J. Petition No.A-2903 of 2015 pending before the Family Court, Bandra, Mumbai. The said consent terms are placed on record at Exhibit-B, Page No.17 of the petition. In paragraph 4(b) of the consent terms, the respondent no.2-husband has undertaken to withdraw the Complaint No.266/SW/2014 pending before the Metropolitan Magistrate.

4. The learned counsels for the respective parties have placed on record affidavits duly signed by the petitioner no.2 and respondent no.2. They are also personally present before this court and are duly identified by their respective counsels. The affidavits are taken on record and marked 'X' and 'X1' for identification. Respondent no.2 has confirmed that he does not wish to proceed with the complaint in view of the settlement arrived at between them before the Family Court.

5. I have perused the complaint and the verification statement. The averments in the complaint and the verification statement do not disclose essential ingredients of the offence under section 506(II) of the Indian Penal Code. The offences under sections 323 and 504 are compoundable. The petitioner no.2 and the respondent no.2 have decided to resolve the matrimonial dispute as per the terms filed before

the family court and in compliance with the consent terms, they have sought leave to compound the offences. In the light of above, permission is granted to compound the offences.

6. Consequently, the order dated 19th April, 2014 is set-aside and quashed. The accused/petitioner stand discharged of the said offences.

7. Writ Petition No.4073 of 2017 stands disposed of accordingly.

(SMT. ANUJA PRABHUDESSAI, J.)