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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3272 OF 2016**

Ritesh Chandrakant Dubal and Ors.	... Petitioners
Vs.	
The State of Maharashtra and Anr.	... Respondents

Ms. Chaula Solanki a/w H.H. Nagi & Associates for the Petitioners.
Ms. M.H. Mhatre, APP for the Respondent No.1.
Ms. Sandhya O. Sharma for Respondent No.2.

**CORAM : A.S. OKA &
ANUJA PRABHUDESSAI, JJ.**

DATE : 12th JANUARY, 2017

ORAL JUDGMENT (Per A.S. Oka, J.)

. **Not on board. Taken on board.**

1 Heard the learned counsel appearing for the petitioners, the learned counsel appearing for the second respondent and the learned APP for the first respondent. Rule. The respondents waives service. Forthwith taken up for final disposal.

2 Prayer in this Petition under Article 226 of the Constitution of India is for quashing the criminal proceedings for the offences punishable under Section 498-A, 406 read with 34 of the Indian Penal Code. The first petitioner and the second respondent are husband and wife. The second and third petitioners are the parents of the first

petitioner. The prayer for quashing is sought on the basis of the consent terms filed before the Family Court, Mumbai at Bandra in a Petition No.A-2442/2013 under which the parties agreed to take divorce by mutual consent subject to terms and conditions incorporated in the said consent terms duly signed by the first petitioner and the second respondent. There is an affidavit in reply filed by the second respondent in which she has stated that compliance with the terms and conditions of the settlement has been made by the parties and that she has no objection for quashing the criminal proceedings.

3 The only compliance which now remains to be done is quashing of the criminal proceedings and passing of a decree of divorce by mutual consent. Today, both the first petitioner and the second respondent have filed separate undertakings on oath recording that they will not withdraw their respective consent for passing a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. A Petition for grant of decree of divorce by mutual consent is pending before the Family Court. We accept the undertakings of the first petitioner and the second respondent.

4 Perusal of the charge sheet shows that it is the matrimonial dispute between the first petitioner and the second respondent which

led to the registration of FIR. In view of the undertakings filed on record and the consent terms, continuation of the criminal proceedings will cause undue hardship to both the parties. Therefore, as held by the Apex Court in the case of Gian Singh Vs. State of Punjab¹, this is a fit case to exercise powers under Section 482 of the Criminal Procedure Code, 1973.

5 Accordingly, we pass the following order :-

ORDER

- (i) Rule is made absolute in terms of prayer clause (c) which reads thus :-

“(c) This Hon'ble Court be pleased to quash and set aside the chargesheet filed before the Hon'ble Metropolitan Magistrate 17th Court Borivali in C.C. No.2221/PW/2010 for the offences Under section 498-A, 406 r/w. 34 of Indian Penal Code.”

- (ii) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)

1 (2012) 10 SCC 303