

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3322 OF 2016**

Sanjeev Kumar Choudhary & Anr. ..Petitioner

v/s.

The State of Maharashtra ..Respondent

Mr. Sanjay Sudhakar Mehta for the Petitioner No.1
Mr. Sateesh K.R. for the Petitioner no.2.
Mr. K.V.Saste, APP for the Respondent-State.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 11TH JANUARY, 2017**

P.C.

1. Rule. Learned APP waives service. Forthwith taken up for final disposal.

2. The prayer in this petition under Article 226 of the Constitution of India is for quashing the proceeding of a Criminal Case. The second Petitioner is the first informant who lodged First Information Report (FIR) alleging offences punishable under Section 498A, 323,

504 read with 34 of the Indian Penal Cod. The first Petitioner and the second Petitioner are husband and wife.

3. The Petitioners have filed petition No. A 631 of 2013 before the Family Court at Pune, for seeking a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. It appears that the petitioners arrived at settlement before the learned Mediator appointed by the Family Court. The consent terms filed before the Mediator are part of the petition under Section 13B of the Hindu Marriage Act, 1955.

4. Today, both the Petitioners are present. They have tendered consent terms duly signed by both of them. The consent terms record complete settlement of their matrimonial dispute. We have perused the consent terms. The consent terms take care of the maintenance of the minor daughter who is a special child. The consent terms incorporate the statement of the Petitioner that he has deposited a sum of Rs.15 lakhs with the Family Court in December, 2015. The consent terms incorporate undertaking of the first Petitioner to deposit balance amount of Rs.20 lakhs on or before the final date of hearing of the petition for divorce, after the criminal

proceedings are quashed. The learned Counsel appearing for the parties state that the petition for divorce by mutual consent is fixed on 24th January, 2017 before the learned Judge of the Family Court.

5. There is a separate affidavit filed by the second Petitioner recording consent for quashing. As there is an overall settlement of the matrimonial dispute, the continuation of the criminal proceeding will cause prejudice to both the Petitioners. The first Petitioner has given undertaking to deposit the balance amount of Rs.20 lakhs, as provided in the consent terms which are tendered on record and marked X-1 for identification. Both the Petitioners who are personally present in this Court undertake to this Court, not to withdraw their consent for passing a decree of divorce under Section 13B of the Hindu Marriage Act.

6. Considering the above settlement, this is a fit case to exercise the powers under Article 226 of the Constitution of India. Accordingly, we pass the following order:

(i) Rule is made returnable in terms of prayer clause (a) which reads thus:

“ Present petition be allowed and case pending before the

Curt of Ld. JMFC, at Khadki, Pune vide RCC No.170 of 2014 be quashed and set aside.”

- ii) All concerned, to act on the authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)