

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

**CRIMINAL WRIT PETITION NO.4096 OF 2017**

Shri Manoj Anil Shivdasani and ors. ... Petitioners

V/s.

Smt. Sonia Manoj Shivdasani and anr. ... Respondents

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Mr.Vinod N. Tayade for the Petitioners.

Ms. Rashmi S. Dandekar for Respondent No.1.

Mr. V.B.Konde-Deshmukh, APP for Respondent No.2/State.

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**CORAM : NARESH H. PATIL AND  
NITIN W. SAMBRE, JJ.**

**DATE : DECEMBER 14, 2017.**

**P.C. (PER NITIN W.SAMBRE, J.):**

. The parties to the present Petition particularly the Complainant-Respondent No.1 is personally present in the court and is identified by her counsel. Respondent No.1 informs to this court that differences between the parties have been resolved amicably and offence in question be quashed by consent.

2. The Respondent No.1 was married to Petitioner No.1-Manoj on December 3, 2009 and out of matrimonial discord Crime No.

220 of 2015 for an offence punishable under Sections 498A, 406, 323, 504 r/w 34 of IPC came to be registered against the Petitioner No.1 and his family members, who are Petitioner Nos. 2 to 4.

3. The parties to the Petition have amicably settled their dispute.

4. The joint petition for divorce is already initiated by Petitioner No.1 and Respondent No.1 and it is agreed by the Petitioner No.1 therein, that he shall pay one time alimony of Rs.6,50,000/- to the Respondent No. 1.

5. Present prosecution against the Petitioners is arising out of matrimonial discord and there are no chances of their reconciliation. The parties have decided to part their ways by amicably settling the matter. Matrimonial discord has not put an embargo on the rights of the parties to claim for quashing of the criminal proceedings by mutual consent. The offence in question can't be termed to be serious and one against the society.

6. The issue of quashing by consent is dealt with by the Apex Court in the matter of **Narindersingh Vs. State of Punjab and others** reported in **2014 AIR SCW 2065**, particularly paragraph No.31 of the said judgment. The Apex Court has permitted the High Court to quash the proceedings so as to meet the ends of justice or to prevent abuse of process of the court.

7. From the record and foregoing observations in our opinion the prayer for the quashing needs to be allowed, as the parties have decided to part their ways and live separately for which Petitioner No.1-husband has paid one time alimony. In view of consent extended by Respondent No.1-complainant, there are blink chances of Petitioners being getting convicted of the offence in question. The offence as is alleged against the Petitioners is neither heinous nor serious having serious impact on the society. The nature of offence as is narrated appears to be arising out of matrimonial relationship.

8. In the wake of above, in our opinion, the present Petition needs to be allowed in terms of prayer clause (a) and also in terms

of the consent extended by the Respondent No.1 for quashing of the proceedings. The Petition stands allowed in above terms, subject to payment of costs of Rs.10,000/- to be paid to the Maharashtra State Legal Services Authority within two weeks from today.

**(NITIN W. SAMBRE, J.)**

**(NARESH H. PATIL, J.)**

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