

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

CRIMINAL WRIT PETITION NO.4442 OF 2015

Mr. Shivan Saran Dhanda & Anr. ...Petitioners

Versus

Ms Roopam Oberoi & Ors. ...Respondents

.....

Mr. Sachin V. Khandagale with Mr. V.R. Kasle for the
Petitioners.

Mr. Pravin G. Sawant for the Respondent No.1.

Mr. K.V. Saste, APP for the Respondent Nos.2 and 3.

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

DATED: 20th FEBRUARY, 2017.

P.C.:-

Rule. The learned APP waives service for the second and third Respondents. The learned counsel for the first Respondent waives service.

2. The prayer is for quashing the First Information Report registered at the instance of the first Respondent for offences punishable under sections 420 and 406 read with 34 of the Indian Penal Code. The first Petitioner and the first Respondent are husband and wife. Pending the Petition, they have arrived at settlement in the

pending Petition filed by the first Respondent before the Family Court at Pune. The first Petitioner and the first Respondent have filed a joint Petition on 4th February, 2017 seeking a decree of divorce by mutual consent under section 13(B) of the Hindu Marriage Act, 1955 (for short 'the said Act.'). There is an affidavit filed by the first Respondent to which a copy of the said Petition is annexed. The first Petitioner husband has withdrawn the Petition filed by him at Family Court, Chennai for grant of divorce. In fact, in the transfer petition filed by the first Respondent before the Apex Court, on 16th June, 2016, the Apex Court has passed an order recording that the first Petitioner and the first Respondent have settled the matrimonial dispute and hence, the Transfer Petition was disposed of as withdrawn.

3. In the Consent Petition filed under Section 13 B of the said Act in the Family Court at Pune, it is stated that the Petitioner has agreed to pay to the first Respondent a sum of Rs.35 lakhs. The copy of an application filed by the first Petitioner and the first Respondent before the Family Court on 4th February, 2017 annexed to the affidavit of the first Respondent shows that the first Petitioner deposited a Demand draft of Rs.35 lakhs drawn in the name of the first Respondent with the Family Court at Pune. By an order passed on the said

application dated 4th February, 2017, the Demand Draft has been ordered to be kept in the safe custody of the Nazir of the Family Court till the next date. Both the learned counsel appearing for the Petitioners and the first Respondent informed the Court that in the Petition pending in the Family Court the next date is 2nd March, 2017. Both the first Petitioner and the second Respondent who are present in the Court through their respective counsel, undertake to this Court not to withdraw their respective consent for passing a decree of divorce under section 13 B of the said Act.

4. In the affidavit of the first Respondent, she has accepted that there is a settlement of matrimonial dispute and that she has no objection for quashing the First Information Report. The first Petitioner has also tendered his affidavit recording the aforesaid facts in which he has stated that he has unconditionally withdrawn all the allegations made him and by the second Petitioner against first Respondent and her family members in the criminal writ Petition. We accept the statements made on oath by the Petitioner.

5. It was the matrimonial dispute which led to the registration of the impugned First Information Report. Now there is a complete

settlement of matrimonial dispute. Therefore the continuation of criminal proceedings will cause undue harassment to the Petitioners and the first Respondent. Therefore, this is a fit case to exercise the powers under section 482 of the Code of Criminal Procedure, 1973 for quashing the First Information Report.

6. Accordingly, we pass following order:-

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

“a) That this Hon'ble Court be pleased to issue an appropriate writ, order or direction quashing and/or setting aside the FIR No.540 of 2014 registered by Kondhawa Police Station, Pune.”

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

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)