

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4161 OF 2016

Amit Subash Bathija and ors.Petitioners
versus
The State of Maharashtra and anr.Respondents
and

CRIMINAL WRIT PETITION NO. 1086 OF 2015

Miss Jayshree BathijaPetitioner
versus
The State of Maharashtra and anr.Respondents

Ms. Kamana Kapoor, advocate for the petitioners in both the petitions
Mr. K. V. Saste, APP for the State.
Ms. Kishar V.Mirza, advocate for the respondent No.2 in writ petition
No.4161 of 2016 and for the respondent No.3 in writ petition No.1086 of
2015.

**CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.**

DATE : 15th JUNE, 2017.

P. C. :

Ms.Kapoor, learned counsel for the petitioners, seeks oral
leave to amend the prayer clause of the petitions so as to provide the
number of the proceedings of the criminal case. Leave as prayed for, is
granted. Necessary amendment to be carried out forthwith.

2. Heard learned counsel and learned APP appearing for the
respective parties.

3. Both the petitions arise out of a common crime and,
therefore, they are being disposed off by this common order.

4. The petitioner No.1 and respondent No.2 in criminal writ petition No. 4161 of 2016 (the respondent No.3 in writ petition No.1086 of 2015) got married on 9th December, 2012. Petitioner Nos.2 and 3 in writ petition No.4161 of 2016 and petitioner in writ petition No.1086 of 2015 are the in-laws. Matrimonial discord between the parties gave rise to filing of civil as well as criminal cases and the subject petition is one of them.

5. At the instance of the respondent- wife (viz. respondent No.2 in writ petition No.4161 of 2016 and respondent No.3 in criminal writ petition No.1086 of 2015) the Khar Police Station registered FIR bearing FIR No.364 of 2014 against the petitioners in both the petitions for the offences punishable under Sections 498-A, 406, 504 and 506 read with Section 34 of the Indian Penal Code. In due course of time, after completion of the investigation, the Khar Police Station filed a charge-sheet before the Metropolitan Magistrate, 9th Court at Bandra, which is numbered as Criminal Case No.4073/PW/2015.

6. Pending investigation of the subject FIR/pending trial of the subject criminal case, the parties settled their dispute amicably with the intervention of their friends, relatives and well-wishers and filed consent terms in M.J.Petition No.F-1791 of 2016. A copy of the said consent terms is annexed at Exhibit 3, page 27 in criminal writ petition No. 4161

of 2016. The parties have approached this Court for quashing the subject crime/criminal proceedings by consent in terms of an understanding arrived at between them.

7. The respondent-wife has filed an affidavit dated 19th November, 2016 in criminal writ petition No.4086 of 2015 and in paragraphs 4 & 5, she has categorically stated that the dispute between herself and the petitioners is settled and the consent terms referred above are filed in M.J.Petition No.1791 of 2016. In paragraph 6, she has given her No Objection for quashing the subject crime/criminal case. The respondent-wife is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has understood the contents thereof and she has no objection if the proceedings of the subject crime/criminal case is quashed and set-aside. She also stated that she is giving no objection for quashing the same out of free will and without there being any pressure or coercion.

8. At this stage, the learned counsel appearing for the respective parties submitted that the M.J.Petition No. 1791 of 2016 filed by the petitioner No.1 and respondent-wife under Section 13(B) of the Hindu Marriage Act, 1955, for divorce by mutual consent is fixed for hearing on 22nd June, 2017. The learned counsel for the respective parties make a statement that the parties to the petition shall remain present before the

Family Court at Bandra and shall co-operate with each other for divorce by mutual consent. The statement is accepted.

9. Thus, it can be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the proceedings of the subject crime/criminal case would be in the interest of the respondent-wife. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the proceedings of the subject crime/criminal case are required to be quashed. Accordingly, the writ petition No. 4161 of 2016 is made absolute in terms of prayer clause (a) and the writ petition No.1086 of 2015 is made absolute in terms of prayer clause (c). Both the writ petitions stand disposed off.

(SARANG V. KOTWAL, J.)

[RANJIT MORE, J.]