

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1502 OF 2016

Mr. Abu Abid Badiuzzama Shaikh
and Another

.. Applicants

Vs

The State of Maharashtra and Another.

.. Respondents

—

Ms. Prajakta Kale i/b Shri Rajeev Sawant & Associates for the
Applicants.

Shri K.V. Saste, APP for the Respondent No.1.

Ms. Nidhi G. Dotiya for the Respondent No.2.

—

CORAM : A.S. OKA &

SMT.ANUJA PRABHUDESSAI, JJ

DATED : 16TH JANUARY 2017

PC.

1. Rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. Forthwith taken up for final disposal.

2. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report (FIR) registered for the offences punishable under Sections 498A, 406, 323, 504 read with 34 of the Indian Penal Code. The FIR has been registered at the instance of the second Respondent.

3. The second Respondent and the first Applicant were the wife and the husband respectively. The Talaq was given by the first Applicant to the second Respondent on 23rd November 2014, a true copy of the Declaration Cum Receipt dated 24th November 2014 is tendered by the learned counsel appearing for the parties which is taken on record and marked "X1" for identification.

4. The second Respondent has filed an affidavit dated 10th January 2017 in which she has accepted that there was a Talaq on 23rd November 2014. However, she has stated the dispute was not resolved as she had not received her articles and Iddat amount. Today, the learned counsel appearing for Applicants has handed over to the learned counsel appearing for the second Respondent wife, Demand Drafts in the sum of Rs.1,00,000/- (Rupees One Lakh) and Rs.5,000/- (Rupees Five Thousand) respectively as set out in Paragraph 2 of the said affidavit dated 10th January 2017. In Paragraph 5 of the said affidavit, the second Respondent has accepted that apart from the aforesaid amounts, she has received her articles. She has further stated that she has no objection for quashing the FIR.

5. The matrimonial dispute between the first Applicant and the second Respondent led to the registration of the impugned FIR. Now, it appears from the record that the matrimonial dispute has been

completely settled in view of the fact that the second Respondent has received her articles as well as the Iddat amount. After the settlement, continuation of the criminal proceedings will cause undue hardship to both the parties. Therefore, in view of the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹, a case is made out for quashing the criminal proceedings.

6. Accordingly, we dispose of the Application by passing the following order.

ORDER :

(a) The Rule is made absolute in terms of prayer clause

(a) which reads thus:

“(a) That this Hon'ble Court be pleased to quash First Information Report No.305 of 2016 registered with Meghwadi Police Station, Mumbai for the offence punishable u/s. 498(A) 406, 323, 504, 34 of Indian Penal Code at the instance of Respondent No.2, Ms. Ruksana Shaikh on such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case.”

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)

¹ (2012) 10 SCC 303