

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

CRIMINAL WRIT PETITION NO.5167 OF 2017

Mr.Prateek Upendra Kotwal ... Petitioner

V/s.

State of Maharashtra and anr. ... Respondents

Mr.Junaid Shabwany i/by Mr.Rohit Sawant for the Petitioner.

Dr.F.R.Shaikh, APP for Respondent No.1-State.

Ms.Sushma Mishra for Respondent No. 2.

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

DATE : DECEMBER 19, 2017.

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

. This petition is by husband seeking quashing of the charge-sheet initiated by Criminal Case No.372/PW/2016 pending on the file of Metropolitan Magistrate, 24th court, Borivali, Mumbai.

2. The Petitioner and Respondent No.2 got married on November 2, 2002. Initially, Petitioner and Respondent No.2 after the marriage got along well, however, out of matrimonial discord Respondent No.2 lodged a complaint on February 1, 2015 alleging commission of an offence punishable under Sections 498A, 494,

406, 504, 506 r/w 34 of the Indian Penal Code. As the criminal law was set in motion after the investigation charge-sheet referred supra filed in the court of Metropolitan Magistrate of which quashing is sought by consent.

3. The Petitioner and Respondent No. 2 have tendered consent terms sworn on December 19, 2017, in which it is stated that the proceedings for divorce by mutual consent are also initiated and pending before the Family Court. The Petitioner-husband has agreed to pay an amount of Rs.13,00,000/- towards permanent alimony, out of which he has already paid an amount of Rs.4,00,000/- on June 7, 2017 before the Family Court in favour of Respondent No.2 vide demand draft. It is assured in the consent terms that balance amount of Rs.9,00,000/- will be paid before the Family Court in divorce proceedings within four months from the date of filing of the divorce proceedings by mutual consent. In paragraph No.3 of the consent terms, it is agreed that the amount of Rs.4,00,000/- is already received and the amount of Rs.9,00,000/- will be permitted to be withdrawn by Respondent No.2, if deposited in terms as agreed. She has consented for

quashing of the prosecution in question.

4. As Respondent No. 2-wife has consented for quashing by mutual consent, we have appreciated the present matrimonial status of the parties. The proceedings for divorce by mutual consent are pending and the issue of agreement for payment of one time alimony is also appreciated.

5. In the wake of settlement arrived at between the parties, there are blink chances of Petitioner being getting convicted under offence in question.

6. The parties have agreed to part their ways.

7. As such, in the interest of justice, in our opinion, it will be appropriate to allow the present petition in terms of prayer clause (a), which reads thus :-

“Pursuant to the Filing of Charge Sheet, the Petitioner and the Respondent No. 2 have amicably settled their differences and have decided to part their ways mutually. The Petitioner and

Respondent have arrived at an amicable settlement accordingly; they both have filed a Petition for Divorce under Section 13(B) of the Hindu Marriage Act with the Hon'ble Family Court at Bandra, Mumbai.”

(NITIN W. SAMBRE, J.)

(NARESH H. PATIL, J.)

....