

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1543 OF 2016

Shri Chandresh Rajnikant Mehta and Others. .. Applicants
Vs
The State of Maharashtra and Others. .. Respondents

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Shri Sangram S. Lotankar for the Applicants.
Dr.F.R.Shaikh, APP for the Respondent No.1 State.
Shri Manas N. Gawankar for the Respondent No.3.
—

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

DATED : 9TH JANUARY 2017

PC.

1. Not on board. Taken on board.
2. Heard learned counsel appearing for the Applicants and the learned counsel appearing for the third Respondent. The learned APP appears for the first and second Respondents.
3. Rule. The Advocate for the third Respondent waives service. The learned APP waives service for the first and second Respondents. Forthwith taken up for final disposal.

4. The first Applicant and the third Respondent are husband and wife. The second and third Applicants are parents of the first Applicant. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report at the instance of the third Respondent as well as the chargesheet filed on the basis of the FIR for the offences punishable under Sections 498A and 406 read with Section 34 of the Indian Penal Code.

5. The learned counsel appearing for the third Respondent has tendered an affidavit of the third Respondent who is personally present in the Court. It is pointed out that even the Applicants are personally present in the Court.

6. In the affidavit of the third Respondent, it is stated that in a Petition pending before the Family Court at Bandra, Mumbai, the first Applicant and the third Respondent have arrived at a settlement and in fact, the consent terms have been filed in the said Petition bearing No.A 2508 of 2014. The affidavit records that the first Applicant and the third Respondent have agreed to take divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Clause 9 of the consent terms filed in the Family Court is quoted in Paragraph 10 of the said affidavit of the third Respondent. It is provided therein that the decree

of divorce be passed after the criminal proceedings are quashed. The first Applicant as well as the third Respondent have accepted the correctness of the contents of the said consent terms filed in the Family Court and pray that the proceedings may be quashed.

7. From the affidavit of the third Respondent, it is apparent that the first Applicant and the third Respondent have agreed to resolve all their disputes and take divorce by mutual consent. The parties are residing separately for considerably a long time. Therefore, the continuation of the criminal proceedings will cause undue harassment to both the parties. Hence, 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.

8. 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 and set aside Charge Sheet

¹ (2012) 10 SCC 303

No.4900498/PW/14 along with F.I.R. No.420 of 2013 registered with Ghatkopar Police Station, District:Mumbai u/s 498(a) 406 r/w 34 of Indian Penal Code against the Applicants filed at the instance of the Respondent No.3, on such terms and conditions as this Hon'ble Court may deem fit and proper;

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)