

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

WRIT PETITION NO.5261 OF 2017

Sharan S. Desai

... Petitioner

V/s.

State of Maharashtra and anr.

... Respondents

Ms.Manjula Rao for the Petitioner.

Mr.K.V.Saste, APP for Respondent No.1-State.

Mr.Santosh Pawar 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 FIR No.78 of 2014 pursuant to which prosecution is pending in the court of 9th, Metropolitan Magistrate, Bandra, Mumbai vide Case No.1821/PW/2015.

2. The Petitioner was married to Respondent No.2 at Delhi on November 25, 2005 and are blessed with 9 years old daughter.

3. Respondent No. 2 on April 16, 2014 lodged a complaint against the Petitioner for the offence of outraging her modesty

resulting into registration of Case No.1821/PW/2015 for an offence punishable under Sections 354, 504 and 506 of the Indian Penal Code. The Petitioner has sought quashing of the same by consent, through the present proceedings. Pursuant to the registration of case and investigation carried out, the Petitioner is charge-sheeted and Case No.1821/PW/2015 is pending on the file of 9th Metropolitan Magistrate, Bandra, Mumbai. The learned counsel for the Petitioner would invite attention of this court to the consent terms presented in Petition No.A-2181 of 2013 with Petition No.C-4 of 2013 with Petition No.D-106 of 2015, so as to claim that the Petitioner has paid one time alimony of Rs.1.5 crores to Respondent No.2. It is also brought to our notice that the Petitioner and Respondent No. 2 respectively has agreed to bear 50% of the expenses towards maintenance and upbringing of the minor daughter.

4. It is also brought to our notice that the parties have agreed to withdraw all the proceedings initiated by the parties inter-se including that of criminal proceedings.

5. The Petitioner also produced on record the copy of the receipt towards payment of amount of Rs.1.5 crores towards permanent alimony.

6. Respondent No.2 is personally present before this court and is identified by her lawyer.

7. She is also accompanied with her mother.

8. Respondent No. 2 also agreed to the consent terms which are produced on record and submits that she has no objection for quashing the proceedings by allowing the present petition in terms of prayer clause (a).

9. Considered rival submissions. It is borne from the record and proceedings that the present proceedings are arising out of matrimonial discord.

10. In our opinion, the petition needs to be allowed.

11. One more aspect of this court must take into care of is that the Petitioner and Respondent No.2 have agreed to part their ways and no fruitful purpose will be served in continuing the prosecution as there are blink chances of the Petitioner being getting convicted in the crime in question. In view thereof, the present Writ Petition is allowed in terms of prayer clause (a), which reads thus:-

“That The Case pending before 9th Metropolitan Magistrate Bandra Mumbai being case no 1821/PW/2015 registered under FIR No.78/2014 by BKC Police Station, be quashed as the same has been settled in terms of the Consent Terms dated 10th August, 2017.”

(NITIN W. SAMBRE, J.)

(NARESH H. PATIL, J.)

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