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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3821 OF 2018**

Zoheb Iqbal Hussain and others

.....Petitioners

V/s.

The State of Maharashtra and another

.....Respondents

Ms. Pritam Joshi I/b Mr. Sayed Zia Amir Mohiddin for the
petitioners

Mr. A. D. Nakhwa APP for the State

CORAM : S. S. SHINDE AND**MRS. MRIDULA BHATKAR, JJ.****DATE : SEPTEMBER 4, 2018.****P.C.**

Heard.

2 Rule. Rule made returnable forthwith with consent of parties.

3 This petition is under Article 226 of the Constitution of India
r/w 482 of Code of Criminal Procedure, 1973 has been filed with

following substantive relief:

“(a) This Hon’ble Court may be pleased to quash the Criminal Proceedings in Criminal Complaint No. 661/PW/2015 in C.R. No. 12 of 2014 filed before the Hon’ble 52nd Metropolitan Magistrate’s Court at Kurla, Mumbai and now transferred to Hon’ble 45th Metropolitan Magistrate’s Court at Kurla, Mumbai and pending before the Hon’ble 45th Metropolitan Magistrate’s Court at Kurla, Mumbai”

4 Pursuant to notices issued to the respondents, respondent no. 2 has filed affidavit-cum-no objection. It is stated in para 5 of the said affidavit that consent terms came to be entered into between respondent no. 2 and petitioner no. 1 on 09/04/2015 in Maintenance Petition no. 3-141/2014 before Family Court at Bandra, Mumbai. On 10/04/2015, Taluqnama came to be executed between respondent no. 2 and petitioner no. 1 and marriage of respondent no. 2 with petitioner no. 1 came to be dissolved. In para 7, it is stated as under:

“7. I say that all disputes between me and Petitioners abovenamed are settled and whatever allegations leveled by me against the Petitioners abovenamed are hereby withdrawn. I have no grievance/allegations against the Petitioners. I say that since the dispute is settled I have NO OBJECTION if this Hon’ble Court quash the Criminal complaint No. 661/PW/2015 which was filed before the Hon’ble 52nd Metropolitan Magistrate’s Court at Kurla, Mumbai and now transferred to Hon’ble 45th Metropolitan Magistrate’s Court at Kurla, Mumbai.”

5 Respondent no. 2 Sana Banu is present in the Court. She has been identified by the learned Additional PP.

6 Since the parties have settled the dispute and respondent no. 2 does not wish to pursue the proceedings arising out of Crime No. 12 of 2014 and Criminal Complaint no. 661/PW/2015, no fruitful purpose will be served by keeping those proceedings pending. Any further continuation of the proceedings would be abuse of process of law in as much as respondent no. 2 is not going to support the allegations made in the F.I.R. or the complaint. Therefore, keeping in view the observations of the Supreme Court in the case of

Gian Singh Vs. State of Punjab and another [2012] 10 SCC 303,
High Court while exercising the powers under section 482 of Code of Criminal Procedure, 1973 can quash the proceedings, though some of the offences are cognizable, keeping in view the terms of settlement and to prevent the abuse of process of Court.

7 In that view of the matter, we incline to allow this petition. Rule is made absolute in terms of prayer clause (a). Writ petition stands disposed of accordingly.

[MRS. MRIDULA BHATKAR, J.]

[S. S. SHINDE, J.]

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Mashal

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