

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 6212 OF 2017**

DR. VISHESH S/O RAMESHWAR LOHAKPURE AND
OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. S.G. Sonawane
APP for Respondent-State : Mr.V.M. Kagne
Advocate for respondent no.2:Mr. A.S. Shejwal

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**CORAM : S.S. SHINDE & MANGESH S. PATIL, JJ.
Dated: November 21, 2017**

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PER COURT :-

At the outset, the learned counsel appearing for Respondent No.2 has tendered across the Bar affidavit of Respondent No.2. The same is taken on record.

2. Rule. Rule made returnable forthwith and heard finally with the consent of learned counsel appearing for the parties.

3. Pursuant to the notices issued to the Respondents, Respondent No.2 has filed the affidavit. It is stated in the said affidavit that, the dispute between applicant no.1 and Respondent No.2 is amicably settled before the Family Court at Bandra, Mumbai in

Divorce Petition No.A-843 of 2016 by the intervention of elder members of the family. Applicant No.1 and Respondent No.2 have decided to take divorce by mutual consent and for that purpose executed the Consent Terms on 3rd June, 2017 before the Marriage Counsellor, Family Court, Mumbai at Bandra. It is further stated in the affidavit that, in view of the Consent Terms arrived at between Applicant No.1 and Respondent No.2, Respondent No.2 has decided not to proceed with the case pending before the Judicial Magistrate, First Class at Ambejogai, Dist. Beed and Respondent No.2 has no objection to quash the proceedings in R.C.C. No.314 of 2015 pending before the Judicial Magistrate First Class at Ambejogai, Dist. Beed against the applicants for the offences punishable under Sections 377, 498-A and 34 of the Indian Penal Code arising out of First Information Report No.90 of 2015 dated 14th May, 2015 registered with Police Station, Ambejogai, Dist. Beed.

4. Respondent No.2 is present in the Court. On specific query, she stated that, it is her voluntary act without any coercion to file such affidavit, stating therein that,

she does not want to proceed with the proceedings in R.C.C. No.314 of 2015 pending before the Judicial Magistrate, First Class at Ambejogai.

5. Keeping in view the averments in the application and affidavit filed by Respondent No.2, no fruitful purpose will be served by continuing with the proceedings in R.C.C. No.314 of 2015 pending before the concerned Court since it will be exercise in futility. The chances of conviction would be bleak and continuation of further proceedings will be abuse of process of law/Court. Therefore, keeping in view the exposition of law by the Apex Court in the case of **Gian Singh V/s. State of Punjab and another¹**, we are inclined to allow this application.

6. In the result, the application is allowed in terms of prayer clause `B' and the same stands disposed of. Rule made absolute accordingly.

(MANGESH S. PATIL, J.)
SGA

(S.S. SHINDE, J.)

¹ 2012 (10) SCC 303