

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 818 OF 2017**

**Raj Ravichandar Dixit
(alias Rajesh Ramchand Rawtani)**

..Petitioner

Vs.

State of Maharashtra & Anr

..Respondents

**Mr. Sanjay Bhojwani for the Petitioner
Mrs. Neelima Vartak for the Respondent No.2
Mrs. S. D. Shinde APP for the Respondent state**

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 15th SEPTEMBER, 2017**

P.C.

1 Not on board. Mentioned for quashing by consent.

2 The above Criminal Writ Petition has been filed for quashing the Sessions Case No.642 of 2013 on the file of the Learned Sessions Judge, Pune. The said case has arisen out of the FIR being C. R.No.27/2013 dated 25-2-2013 registered by the Koregaon Park Police Station for offences punishable under Sections 376, 376(2)(E), 420, 467, 468, 506(2) & 509 of the Indian Penal Code. The said FIR has arisen out of the matrimonial dispute between the Petitioner and the Respondent No.2 who are husband and wife. The parties were before the Family Court, Pune in matrimonial proceedings being PA. No.292 of 2013 filed by the Respondent No.2 herein for divorce on the ground of nullity. The parties have reached an out of court settlement which

has been reduced into writing by way of Settlement Agreement which comprises the Consent Terms. The parties thereafter filed the said settlement agreement in the Family Court on 27-12-2016 which came to be marked as Exhibit 111.

3 In terms of the relief sought in the present Petition clauses C(b) and C(4) of the consent terms are material and are reproduced hereinunder:

C(b) Sessions Case No.642 of 2013 titled State of Maharashtra Vs. Raj Ravichandar Dixit (Alia Rajesh Ramchand Rawtani). The said case arises out of C. R. No.27 of 2013 for offences punishable u/s 376, 376(2)(E), 420, 467, 468, 506(2) & 509 of the Indian Penal Code on a complaint filed by the Petitioner against the Respondent herein at the Koregaon Park Police Station. The said Sessions Case is pending on the file of the Hon'ble Sessions Judge, the Hon'ble Smt. M. J. Dhote Saheb and is at the stage of framing of charge.

C(4) Immediately upon filing these consent terms before the Hon'ble Family Court, however not later than 15 days, the Respondent shall file a Petition before the Hon'ble High Court of Judicature at Bombay, seeking quashing of the Sessions Case No.642 of 2013 pending on the file of the Hon'ble Sessions Judge, Pune. At the time of filing of the said Petition, the Petitioner shall handover an Affidavit duly sworn by her detailing therein the terms of

settlement and containing her unqualified and irrevocable Consent to the quashing of the said Sessions Case.

4 Hence the consent terms filed before the Family Court provided that immediately after the filing of the consent terms, the parties were to apply for quashing of the proceedings which were pending in the Sessions Court being Case No.642 of 2013. This is how the instant Petition has been filed . The consent terms interalia contain the terms of settlement which have been arrived at between the parties which terms contemplated the payment of an amount to the Respondent No.2 herein out of which the Learned Counsel for the Petitioner Mr. Bhojwani states that an amount of Rs.8 lakhs (Rupees Eight Lakhs) have been paid to the Respondent No.2 by Demand Draft and an amount of Rs.12 lakhs (Rupees Twelve Lakhs) is lying in deposit in the Family Court. Hence the consent terms have also been partly acted upon and the instant Writ Petition is one more facet of the consent terms which are sought to be implemented.

5 The Respondent No.2 i.e. the first informant has filed an affidavit bearing today's date and sworn before the notary public of Ms Rekha Tolat and bears notarial register No.7174 dated 15-9-2017. In the context of the relief sought paragraphs 6, 7 and 8 of the said affidavit are material and are reproduced herein under :

6 After due deliberations and discussions the Petitioner and I have entered into a Settlement Agreement and Consent Terms dated 27-12-2016, thereby permanently resolving all our disputes and differences and putting an end to the disputes and cases and parting ways by praying for a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act. The said Settlement Agreement and Consent Terms have been filed by us before the Family Court Pune in P.A. No.292/2013 and have been partly acted upon, as stipulated therein. A “true copy” of settlement agreement and consent terms executed by and between the Petitioner and me is annexed to the petition, marked as “Exhibit B” therein.

7 I state that as per the consent terms since we have agreed to close all cases there remains to lis between me and the Petitioner and so I do not want to continue the prosecution against the Petitioner in Sessions Case No.642 of 2013 arising out of C. R. No.27/2013.

8 Accordingly I give my unqualified consent to the quashing of the Sessions Case No.642 of 2013. The Charge Sheet dated 26/4/2013 in C.R. No.27/2013 and the C.R. No. 27/2013 registered at the Koregaon Park Police Station, Pune.

6 The Respondent No.2 is personally present in Court. She is identified by Mrs Neelima Vartak the Learned Counsel appearing for her. She is also identified by her Pan Card No.APUPB6039D, which is in her maiden name as Sonal Sanjay Baviskar. When put in the box and queried she states that she has filed the said affidavit of her own free will and volition and that the contents of the affidavit are acceptable to her. Having regard to the

consent terms as also the statement made by the Respondent No.2 in the box and having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the above Criminal Writ Petition pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (i), resultantly the proceedings being Sessions Case No.642 of 2013 pending on the file of the Hon'ble Sessions Court would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

7 The Petitioner to pay costs of Rs.10,000/- to be deposited with the Kritiker Law Library, High Court, A. S., within 6 weeks from date, receipt to be obtained and filed in the registry.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065