

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

CRIMINAL APPLICATION NO.339 OF 2017

Virender Vishal Singh and others : Applicants.
Versus
State of Maharashtra and anr. : Respondents.

Mr. Prakash Pawar for the Applicants.
Mrs. S V Sonawane, APP for the Respondent No.1/State.
Mr. Mukesh Shinde for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE JJ.**
DATE : 21st AUGUST, 2016

PC.

- 1 Not on board. Mentioned for quashing the proceedings.
- 2 By consent of the learned counsel for the parties taken up for hearing.
- 3 By the above Criminal Application, the Applicants pray for quashing of the proceeding in Regular Criminal Case No.3507 of 2012 arising out of the FIR registered for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code. The parties above-named were before the Apex Court in a Special Leave Petition arising out of the Transfer Petition No.1799 of 2015 filed by the Respondent No.2 herein. In the said Transfer Petition the Apex Court, it seems, referred the parties to mediation before the Supreme Court

Mediation Centre. In the said mediation, the parties arrived at a Settlement Agreement dated 05/10/2016. In the context of the relief sought in the present Criminal Application, Clause 2 (C) of the said Settlement Agreement is relevant is reproduced herein under :-

“2(C) Case bearing No.3507 of 2012 under Section 498A pending before the JMFC Court, Pune filed by Petitioner-wife against the Respondent-husband and will be quashed by filing a petition before the Hon'ble Bombay High Court after the First Motion and before the Second Motion of mutual divorce petition.”

4 The Respondent No.2 i.e. the first informant has also filed her affidavit bearing today's date i.e. 21/08/2017. The said affidavit refers to the Settlement Agreement arrived at in the Mediation Centre of the Apex Court. In paragraph 9 of the said affidavit it is stated that both the Respondent No.2 and the Applicant No.1 have filed a Petition for divorce by mutual consent in the court of the learned Civil Judge Senior Division at Pune being Marriage Petition No.1362 of 2016 and the said proceeding is now kept for judgment by the learned Civil Judge Senior Division at Pune. Paragraphs 10 and 11 of the said affidavit assume importance in the context of the relief sought in the above Criminal Application. The same are therefore reproduced herein for the sake of ready reference :-

“10 I state that the disputes between me and the Applicants have been amicably settled in terms of the consent terms dated 05/10/2016. I further state that both parties have complied with their respective obligations and undertakings as recorded in the said consent terms and hold each other free of any claims in the future.

11 I shall have no objection to quash the case bearing R.C.C. No.3507 of 2012 pending before the Hon'ble Judicial Magistrate First Class, Court No.3 at Pune and hereby give my express consent for the same. I shall further have no objection if this Hon'ble Court decides to grant the reliefs as prayed for by the Applicants in the present proceedings.”

Hence the Settlement Agreement dated 05/10/2016 and the affidavit of the Respondent No.2 herein dated 21/08/2017 unequivocally point out that the parties have resolved their disputes amicably.

5 The Respondent No.2 is personally present in Court. She is identified by the learned counsel appearing for her. She is also identified by her PAN Card bearing No.AZJPS8447H. When put in the box and queried, she states that the affidavit tendered today dated 21/08/2017 is hers and she has signed the said affidavit. She further states that she has understood the contents of the said affidavit and that the same are acceptable to her.

6 The Applicant No.1 is personally present in Court. He is identified by the learned counsel appearing for him Mr. Prakash Pawar. He is also identified by his Aadhar Card bearing No.4904 6990 7616. When put in the box and queried, he states that he has read the affidavit filed by the Respondent No.2 and he also accepts the fact that the Settlement Agreement was arrived at between the parties in Mediation Centre of the Apex Court.

7 In view of the aforesaid facts and in the light of the judgments of the Apex Court reported in (2012) 10 SCC 303 in the matter of Gian Singh v/s. State of Punjab and another and 2014 AIR SCW 2065 in the matter of Narinder Singh v/s. State of Punjab, no useful purpose would be served by continuing the proceedings. There is now no impediment for quashing of the proceeding in Regular Criminal Case No.3507 of 2012 arising out of the FIR registered for the offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code.

8 The learned counsel appearing on behalf of the Applicants Shri Prakash Pawar hands over a Demand Draft of Rs.Eleven Lakhs drawn on the HDFC Bank which is the balance of the alimony to be paid to the Respondent No.2 to the learned counsel appearing for the

Respondent No.2 Shri Mukesh Shinde. The learned counsel appearing for the Respondent No.2 Shri Mukesh Shinde undertakes to file his vakalatnama during the course of the week. Statement is accepted.

9 The above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (b). The above Criminal Application to accordingly stand disposed of.

10 All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]