

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO.1408 OF 2017**

Mohamad Shafi & Ors. ....Petitioners  
V/s.  
The State of Maharashtra & Anr. ....Respondents

Mr. Hakim Salim A.R., Advocate for Petitioners.  
Mrs. M.M.Deshmukh, APP for the Respondent-State.  
Mr. Faisal Vora, Advocate for Respondent No.2.

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**CORAM :- R.M. SAVANT &  
SANDEEP K. SHINDE, JJ.**

**DATE :- 8TH SEPTEMBER, 2017.**

**PC. :-**

This Writ Petition has been filed for quashing of the FIR being C.R.No.396 of 2016 registered with the Malad Police Station on 17.8.2016 for the offences punishable under Sections 498A, 406, 323, 504, 506(II) and 34 of IPC. The Petitioner No.1 and the First Informant, i.e., Respondent No.2 are husband and wife and the fact of filing FIR was on account of the matrimonial disputes between them. The parties have filed the Consent Terms before the Sessions Court in the Application filed for anticipatory bail by the Petitioner No.1. The

said Consent Terms disclose the overall settlement arrived at between the parties. In the context of the present Petition, Clause 2 of the said Consent Terms is material and is re-produced hereunder:

*“2. The first party in lieu of the Qula and settlement of dispute between both the parties agreed to receive permanent alimony Rs.5 Lakhs from the second party in two installment i.e. Rs.2 Lakhs vide D.D.No.106859 of SBH, Ashok Nagar, Branch, Dist. Karimnagar, Telangana, on this day of execution of consent terms and agreed to receive the remaining balance of Rs.3 lakhs i.e. vide DD Nos.106858 for amount of Rs.1,80,000/- of SBH, Ashok Nagar Branch, Karimnagar and DD No.990912 for amount of Rs.1,20,000/- of SBI Gandhi Road Branch, Karimnagar, respectively at the time of filing Affidavit, no objection appearing before the Hon'ble High Court, Mumbai in quash proceeding filed by the Second Party for withdrawal of Crime No.396/2016. Hence, no claim. Further the first party forgives all future claims towards fair provision, maintenance and permanent alimony, as such no claim in future as ceased the same.”*

The First Informant, i.e., the Respondent No.2 has also filed an affidavit dated 5.7.2017, which is tendered across the bar by the learned counsel appearing for her. The said affidavit is sworn before Notary Public Mrs. Aliya Pathan, Notary Government of India bearing Notarial Register No.25376 dated 5.7.2017. Paragraph 2 of the said affidavit is material and is re-produced hereunder:

*“2 I say that I have no objection if the proceedings against all the Accused persons in the said C.R.No.396 of 2016 under Sections 498(A), 406, 323, 504, 506(II), 34 of IPC in the Malad Police Station on 17.8.2016 is quashed.”*

The First Informant is personally present in the Court and she is identified by the learned counsel Mr. Faisal Vora. She is also identified by her PAN Card bearing no.CUDPS2818D. When put in the box and queried, she states that she accepts the fact that Consent Terms are filed between the parties in the Sessions Court. She further states that she has no objection to quash the subject FIR and that the contents of the said affidavit are acceptable to her . The Petitioner No.1, i.e., the husband is also personally present in the Court. He is identified by the learned counsel Mr. Hakim Salim appearing for him. He is also identified by his Adhar Card No.3614 0498 1664. His address is House No.12-3-41, Shairpura, Yellambazar, Warangal, Andhra Pradesh. When put in the box and queried, he states that the Consent Terms have been filed between him and the Respondent No.2, i.e., the wife. Filing of the Consent Terms and the affidavit by the Respondent No.2, therefore, exemplifies the settlement arrived at between the parties. Having

regard to the judgment of the Apex Court in the case of **Gian Singh v/s. State of Punjab, reported in (2012) 10 SCC 303** and **Narinder Singh V/s. State of Punjab, reported in (2014) 6 SCC 466**, no useful purpose would be served by keeping the proceedings pending. Hence, there is now no impediment in quashing the proceedings, the above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (A).

**(SANDEEP K. SHINDE, J)**

**(R.M. SAVANT, J)**