

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

CRIMINAL WRIT PETITION NO.1010 OF 2016

Mrs. Shikha Pratik Shah and ors. : Petitioners.
Versus
Pratik Rashesh Shah and anr. : Respondents.

**ALONG WITH
CRIMINAL WRIT PETITION NO.1555 OF 2017**

Pratik Shah and ors. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

**Mr. Kuldeep U Nikam for the Petitioners in Writ Petition No.1010 of 2016
and for the Respondent No.2 in Writ Petition No.1555 of 2017.**

**Mr. Lakshyaved R Odhekar for the Petitioners in Writ Petition No.1555 of
2017 and for the Respondent No.1 in Writ Petition No.1010 of 2017.**

Mr. J P Yagnik, APP, for Respondent/State in both the Writ Petitions.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**
DATE : 19th September 2017

P.C.

1 At the outset the learned counsel for the Petitioners Shri L R Odhekar seeks leave to amend so as to array the wife Mrs. Shikha Pratik Shah as a party Respondent No.2 in Writ Petition No.1555 of 2017. Leave granted. Amendment to be carried out forthwith.

2 The above Writ Petitions have been filed for quashing of the FIR No. 56 of 2016 dated 12/02/2016 registered at the behest of the Respondent No.1 – husband with the Kandivali Police Station, Mumbai for the offences

punishable under Sections 420 and 495 r/w 34 of the Indian Penal Code (subject matter of Writ Petition No.1010/2016) and the FIR No.431 of 2016 dated 06/12/2016 registered at the behest of the Respondent No.2 – wife with the Kandivali Police, Mumbai for the offences punishable under Sections 498A, 377, 406 r/w 34 of the Indian Penal Code (subject matter of Writ Petition No.1555/2017).

3 The said First Information Reports (FIRs) therefore are in the nature of cross complaints arising out of the matrimonial disputes between the first informants i.e. the husband and wife. The parties were before the Family Court in Marriage Petition No. A-2911 of 2014 filed by the Petitioner – husband for divorce under Section 13(1)(ia) of the Hindu Marriage Act. It seems that the Respondent No.2 Wife had also filed Marriage Petition and both are being heard together. In the said Marriage Petition No.A-2911 of 2014 the parties were referred to the Marriage Counsellor. It is before the Marriage Counsellor that the parties have entered into a settlement which has been reduced into writing by way of Consent Terms dated 28/07/2017 evidencing the said settlement arrived at between the parties. Suffice it would be to state that the said Consent Terms are in the nature of an overall settlement arrived at between the parties and in terms of the said Consent Terms, the Petitioner – husband has to deposit an amount of Rs.31,50,000/-. In so far as the instant proceedings are concerned, paragraphs 10 and 11 of the said Consent Terms

are material and the same are reproduced herein under :-

“10 The petitioner has filed complaint against Respondent and her family member FIR bearing No.56/2016 for offence u/s 420, 495, 34 & 120(B) of IPC with Kandivali Police Station for which Respondent filed W.P. No.1010/2016 for quashing FIR before Hon'ble High Court for which the Petitioner hereby undertake that he shall initiate appropriate steps and co-operate with the Respondent for quashing FIR in said W.P. No.1010/16 in order to discharge the Respondent and her family member in said complaint i.e. F.I.R. No.56/2016, after the Petitioner deposits the total sum of Rs.31,50,000/- (Rupees Thirty One Lakhs Fifty Thousand only).

11 The Respondent has filed a complaint against the Petitioner and his family member F.I.R. bearing No.431/2016 for offence u/s 377, 498(A), 406, 34 of IPC with Kandivali Police Station for which Petitioner filed W.P. No.1555/2017 for quashing F.I.R. which is pending before Hon'ble Bombay High Court and the Respondent hereby undertake that she shall initiate appropriate steps and co-operate for quashing F.I.R. which is pending before Hon'ble Bombay High Court said W.P. No.1555/2017 in order to discharge the Petitioner and his family member in said complaint i.e. F.I.R. No.431/2016 after the Petitioner deposits the total sum of Rs.31,50,000/- (Rupees Thirty One Lakhs Fifty Thousand only).

4 The parties have filed their affidavits. The Respondent No.1 - husband Pratik Rashesh Shah has filed his affidavit bearing today's date i.e. 19/09/2017 and sworn before the Notary Public Mrs. Aliya N Pathan, Notary Government of India bearing Notarial Registration No.26766 dated 19/09/2017. He is identified by the learned Counsel Shri L R Odhekar before the Notary Public. In the context of the reliefs sought in the Writ Petition

No.1010 of 2016 paragraphs 5 and 6 of the said affidavit are material and are reproduced herein under :-

“5 I further state that as mentioned in the said consent terms marked at Exhibit-1 herewith I have no grievance and complaint against the present Petitioners.

6 I therefore undertake to give my consent to this Hon'ble Court for allowing the present Petition in the light of the settlement arrived at between the parties and pass an order of quashing the FIR No.56 of 2016 registered with Kandivali Police Station, Mumbai on 12/02/2016.

The Respondent No.1 – husband Pratik Shah is also personally present in Court. He is identified by the learned counsel Shri L R Odhekar. He is also identified by his Aadhar Card bearing No.7743 6704 6351. When put in the box and queried, he accepts the factum of the Consent Terms being filed in the Family Court, Mumbai which are annexed to the above Writ Petition No.1010/2016. He further states that the affidavit tendered by the learned counsel Shri L R Odhekhar is his and that the contents of the said affidavit are acceptable to him, and that he has signed the said affidavit of his own free will and volition.

5 The Respondent No.2 - wife Mrs.Shikha Pratik Shah has filed her affidavit bearing today's date i.e. 19/09/2017 and sworn before the Notary Public Mrs. Aliya N Pathan, Notary Government of India bearing Notarial Registration No.26765 dated 19/09/2017. She is identified by the learned

Counsel Shri Kuldeep Nikam before the Notary Public. In the context of the reliefs sought in the Writ Petition No.1555 of 2017 paragraphs 5 and 6 of the said affidavit are material and are reproduced herein under :-

“5 I further state that as mentioned in the said consent terms marked at Exhibit-1 herewith I have no grievance and complaint against the present Petitioners.

6 I therefore undertake to give my consent to this Hon'ble Court for allowing the present Petition in the light of the settlement arrived at between the parties and pass an order of quashing the FIR No.431 of 2017 registered with Kandivali Police Station, Mumbai on 06/12/2016.

The Respondent No.2 – wife Mrs. Shikha Pratik Shah is personally present. She is identified by the learned counsel Shri Kuldeep Nikam. She is also identified by her Aadhar Card bearing No.9429 7225 5704. When put in the box and queried, she accepts the factum of the Consent Terms being filed in the Family Court, Mumbai which are annexed to the above Writ Petition No.1555/2017. She further states that the affidavit tendered by the learned counsel Shri Kuldeep Nikam is hers and that the contents of the said affidavit are acceptable to her, and that she has signed the said affidavit of her own free will and volition.

6 Hence the Consent Terms filed by the parties in the said Marriage Petition as well as the affidavits filed by the first informants coupled with their statements made whilst in the witness box ex-facie disclose that the parties

have arrived at an amicable settlement and therefore do not desire to proceed with the FIRs lodged by them respectively.

7 Having regard to the law laid down by the Apex Court in the matter of Narinder Singh and others vs. State of Punjab and another, reported in 2014 AIR SCW 2065 as also the judgment of the Apex Court in the matter of Gian Singh vs. State of Punjab and anr. reported in (2012) 10 SCC 303, no useful purpose could be served by keeping the proceedings pending. In view of the settlement between the parties, there is no impediment in quashing the respective FIRs.

8 The above Writ Petitions are accordingly allowed and made absolute in terms of prayer clause (a). The above Writ Petitions are accordingly disposed of.

9 The Petitioner in Writ Petition No.1010 of 2016 to pay costs of Rs.10,000/-, to be deposited with the Maharashtra Legal Aid Fund within six weeks from date and obtain a receipt for the same and file the same in the Registry of this Court.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]