

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2601 OF 2017

Gopalkrishna Shyamsunder

Agrawal and Ors.

....Petitioners

V/s.

The State of Maharashtra & Anr.

....Respondents

Mr. Pramod Pandey i/by Mr. Arun Kumar Tripathi, advocates for
Petitioners.

Mr. K.V.Saste, Addl. PP for the Respondent-State.

Mr. V.S.Sharma, advocate for Respondent No.2.

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

DATE :- 10TH AUGUST, 2017.

PC. :-

Rule, with the consent of the learned counsel for the
parties, made returnable forthwith and heard.

2 By the above petition, the petitioner seeks quashing of
the FIR No.385 of 2016 registered with the Kashimira Police Station
against the petitioners for the offences punishable under Sections
498A, 406, 323, 504, 506 and 34 of the IPC. The said case has
arisen out of the matrimonial dispute between the parties, i.e., the
petitioner no.1 and the respondent no.2 herein. Parties were before

the Family Court in Petition No.A-1477 of 2016 filed by the respondent no.2 for divorce on the grounds mentioned in the said petition. However, during the pendency of the said petition, 'Consent Terms' were arrived at by which the parties had agreed to seek divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955. The said 'Consent Terms' were accordingly signed by the parties before the marriage counsellor in the Family Court and such 'Consent Terms' bears the date 6.6.2017. In view of the settlement arrived at between the parties as evidenced by the 'Consent Terms', the said Marriage Petition was converted into a petition for divorce and a decree by mutual consent came to be passed on 6.6.2017. It seems that prior thereto parties had also compromised the domestic violence proceedings which were before the 67th Metropolitan Magistrate's Court at Borivali by filing 'Consent Terms' dated 1.6.2017 before the said Court.

2 Respondent no.2, i.e., the first informant is personally present in the Court and the learned counsel appearing for her tendered her affidavit dated 10.8.2017. In the context of the reliefs sought in the above writ petition, Clause (iv) and Clause 3 of the said affidavit are material and are reproduced hereunder:

“iv) I say that I had filed Petition in Family Court

bearing no.1477/2016 which is converted by permission of Hon'ble Family Court into Petition by mutual consent and same is decreed and divorce is granted on 1.7.2017. I have applied for certified copy.

3) I the respondent, hereby on basis of consent term entered, do hereby agree by my free will and consent, that I have no objection and give my consent for quashing of F.I.R. bearing no.I 385/2016 filed in Kashimira Police Station at Mira Road, thane against the Petitioner and others.”

3 Aforesaid facts, therefore, disclose that parties have amicably resolved their disputes. In terms of the law laid down by the Apex Court in the matter of **Madan Mohan Abbot v. State of Punjab (2008) 4 SCC 582**, no useful purpose would be served in keeping the criminal proceedings pending except to further burden the system which is already burdened. Having regard to the judgment of the Apex Court in **Narinder Singh v. State of Punjab (2014) 6 SCC 466**, there is no impediment for quashing the FIR. Having regard to the facts and circumstances of the case, the Petition is, accordingly, allowed and is made absolute in terms of prayer clause (b).

4 Rule is, accordingly, made absolute.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)