

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2617 OF 2017

Janavi Pawan TalrejaPetitioner
V/s.
Pawan Mohan Talreja & Ors.Respondents

Mr. Manoj Mohan Gadkari, Advocate for Petitioner.
Mrs. S.V.Sonawane, APP for the Respondent-State.
Mr. Arvind Aswani, Advocate for Respondent No.1.

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

DATE :- 27TH SEPTEMBER, 2017.

PC. :-

The above Writ Petition is being filed for quashing of the proceedings being Sessions Case No.85 of 2016 pending before the learned Additional Sessions Judge, Pune. The said case has arisen out of CC being No.3667 of 2013 for the offences punishable under Sections 312, 313, 322, 323, 405, 420, 506(II) read with Section 34 of the IPC. The cause for lodging the FIR was the matrimonial dispute between the Petitioner and the Respondent No.1 herein who are the wife and husband respectively. Parties were before the Family Court in the matrimonial proceedings

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bearing PA No.1180 of 2012 filed by the Respondent No.1-husband for a decree of divorce on the ground of cruelty. The said Petition came to be dismissed by the Family Court by the judgment and order dated 22.11.2016. The said judgment of the Family Court is taken exception to by the Respondent No.1 by filing Family Court Appeal (Stamp) No.6676 of 2017. In the said Family Court Appeal, the parties have filed Consent Terms recording the amicable settlement which has been arrived at between the parties. It is in the context of the said Clause 5(d) of the Consent Terms that the instant Petition has been filed for quashing of the proceedings which are pending in the Sessions Court.

“5(d) The Respondent shall withdraw all allegations made by her in the complaint filed before the police and/or the Hon'ble Magistrate, which has now culminated into Sessions Case No.85/2016 under Sections 312, 313, 322, 323,405, 420, 506(II) read with Section 34 of the Indian Penal Code. Out of the said sections, offences punishable under Sections 323 and 506 are compoundable without leave of the Court and offences punishable under Sections 312, 405 (406) and 420 are compoundable with leave of the Court. However, since Section 313 is not compoundable offence, the parties will pray to the Hon'ble Court in the present Appeal to invoke the

extraordinary jurisdiction and to quash the proceeding in the said Sessions Case before the Hon'ble Additional Sessions Judge.”

2 As indicated above, the Consent Terms have been filed in the said Family Court Appeal which is also listed before another Division Bench of this Court today and orders are to be passed after this Court passes an order in the above Writ Petition. The above Petition has been filed by the wife, i.e., the First Informant for quashing. The Petitioner is personally present in Court. She is identified by Shri Gadkari the learned counsel appearing for her. She is also identified by her Adhar Card bearing No.9480 3331 0077 which is in her maiden name, i.e., Ms. Anita Sadharam Chawla. When put in the box and queried, she accepts the fact that she and the Respondent No.1 have arrived at an amicable settlement as a consequence of which Consent Terms have been filed in Family Court Appeal (St) No.6676 of 2017. She further states that she does not desire to prosecute the Sessions Case No.6676 of 2017 which is pending in the Sessions Court, Pune. The Respondent No.1-Pawan Talreja is also personally present in Court. He is identified by the learned counsel Shri Arvind Aswani. He is also identified by his Driving Licence bearing No.MH12 20030447710 issued on

11.12.2003 and valid till 10.12.2023. When put in the box and queried, he accepts the fact that the parties have filed Consent Terms in the Family Court Appeal. Hence, filing of the Consent Terms disclose that the parties have amicably resolved their disputes and, therefore, do not desire to proceed with the pending case. Having regard to the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. The Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a).

3 The Petitioner No.1 and the Respondent No.1 to pay costs of Rs.5,000/- each to be deposited with the Maharashtra Legal Aid Fund within four weeks from date. Receipts to be obtained and filed in the Registry.

4 The learned counsel Mr. Aswani undertakes to file his

vakalatnama for the Respondent No.1 within one week. Undertaking accepted.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)