

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2870 OF 2017

Rajesh Maruti Shelar & Ors.

....Petitioners

V/s.

The State of Maharashtra & Ors.

....Respondents

* * * * *

Ms. Shabnam Latiwala, Advocate for the petitioners.

Mrs. M.H. Mhatre, APP for respondent no.1, State.

Mr. Mikdad A. Zumnerwala, Advocate for respondent no.3.

CORAM :-

R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :-

16TH AUGUST, 2017.

P.C. :-

1. By the above petition, the petitioner seeks quashing of the proceedings being C.C. No. 320/PW/2017 pending before the Learned Additional Chief Metropolitan Magistrate, 73rd Court, Vikhroli, Mumbai. The said case is arising out of C.R. No.101 of 2015 registered with the Pant Nagar Police Station, Ghatkopar for the offences punishable under Sections 498A, 354, 406, 323, 504, 506

(II) read with Section 34 of the Indian Penal Code. The said FIR has arisen out of the matrimonial dispute between petitioner no.1 and respondent no.3 who were husband and wife. Petitioner no.1 had filed a petition for divorce in the Family Court being Petition No. A-3057/2015 for divorce on the ground of cruelty. In the said petition, the parties were referred to mediation, as a result of which, the parties amicably resolved their dispute which was translated into consent terms for divorce between the parties which were arrived at before the Mediator. The said consent terms for divorce are dated 6th June, 2017. The first informant i.e. respondent no.3, wife has filed an Affidavit dated 19th July, 2017 which is annexed to the above petition as Exhibit-D. Insofar as, consent terms are concerned, para-6 of the consent terms is material and is reproduced hereunder :-

“6. In view of above settlement, respondent-wife agreed to withdraw all her criminal complaints/cases filed against the petitioner and/or his family members, as agreed.”

2. Insofar as, Affidavit is concerned, paras-4 and

5 of the said Affidavit are material and are reproduced hereunder :-

“4. I say that I have now settled the matter with Petitioner and wish to withdraw all the allegations leveled by me against the Petitioners.

5. I say that I have now settled my dispute amicably with the Petitioners and have no grievance against the Petitioners who are named in C.R. No.101/2015 registered at my instance by Pant Nagar Police Station and case No. 320/PW/2017 pursuant thereto. I say that I have executed the consent terms in family court in Petition No.A-3057/2015 on 06.06.2017, before the Hon'ble Family Court Judge.”

3. In view of the consent terms and the said Affidavit, it can be concluded that the parties have settled their dispute amicably. Respondent no.3 is personally present in the Court. She is identified by the Learned Counsel Mr. Zumnerwala appearing for her and she is also identified by her Aadhar Card bearing No. 8781 2597 4634. When put in the box and queried, the respondent no.3 states that she has filed the said Affidavit dated 19th

July, 2017 and that the signature on the said Affidavit is hers. The same has been done by her in view of the consent terms arrived at between the parties.

4. In view of the aforesaid and in view of the light of the judgments 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. There is, now no impediment in quashing the proceedings. Hence, the petition is allowed and made absolute in terms of prayer clause (a).

5. Respondent no.3 also states that, she is waiving the payment of Rs.1,00,000/- which was to be paid by petitioner no.1 to her.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)