

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

CRIMINAL WRIT PETITION NO.3059 OF 2017

Sagar Narayan Sangare & Anr.	 Petitioners
versus	
State of Maharashtra & Ors.	... Respondents
.....	

- Mr.Chaitanya Malgaonkar i/b. GMS Legal, Advocate for the Petitioners.
- Mrs.A.S. Pai, APP for the State/Respondent.
- Ms.R.K. Thakkar, Advocate for the Respondent No.3.

**CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.**
DATE : 04th AUGUST, 2017.

P.C. :

1. Heard the learned counsel for the petitioners, respondent No.3 and learned APP.
2. The petition is filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside Criminal Case bearing No.928/PW/2017 pending on the file of learned 10th Metropolitan Magistrate's Court, Andheri, Mumbai, arising out of C.R.No.109/16, registered with Jogeshwari Police

Station, Mumbai at the instance of respondent No.3 for the offences punishable u/s 377, 323, 504, 506, 507, 406, 498-A r/w 34 of the Indian Penal Code.

3. The petitioner No.1 and the respondent No.3 are the husband and wife. The petitioner No.2 is the mother of petitioner No.1. The matrimonial dispute between the parties gave rise to civil as well as criminal proceedings. The subject matter of the present petition is one of them.
4. Pending trial of the subject criminal case, with the intervention of the relatives of the parties, parties have settled their dispute amicably and accordingly filed consent terms before Family Court at Bandra in M.J. Petition No.A-1154/16. Copy of the consent terms is annexed at Ex.'B' at page No.89 of the petition. In terms of the consent terms the parties have approached this Court for quashing the criminal proceedings by consent. The respondent No.3 has filed an affidavit dated 21/07/2017. In paragraph No.8 she has given no objection for quashing and setting aside the subject criminal proceedings.

5. The respondent No.3 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has fully understood the contents thereof and has no objection, if the subject proceedings are quashed and set aside. She has also stated that she is giving no objection for quashing the subject proceedings out of free will and without there being any pressure or coercion.
6. The petitioner No.1 is also present before the Court. He states that since he himself and his wife i.e. respondent No.3 have mutually decided to separate and in keeping with the spirit of the settlement he is willing to pay to the respondent No.3 an amount of Rs.4,00,000/- towards full and final settlement within eight weeks from today and the respondent No.3 be allowed to withdraw the amount once the petition pending in Family Court is decided.
7. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it

clear that the allegations are totally personal in nature. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **B.S. Joshi vs. State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the criminal proceedings would be in the interest of respondent No.3. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject criminal proceedings are required to be quashed and set aside. The petition is, accordingly, made absolute in terms of prayer clause (b) on condition that the petitioner No.1 shall deposit in this Court an amount of Rs.4,00,000/- (Rs.Four Lakhs) within eight weeks from today.

8. In the event such amount is deposited, the respondent No.3 is at liberty to withdraw the same after decree of divorce by mutual consent is granted by the Court of competent jurisdiction.

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)