

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 825 OF 2017**

Afzal Shaikh & Ors

..Applicants

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. H. S. Shinde for the Applicants

Mrs. A. S. Pai Addl PP for the Respondent State

Ms Reshma Gaikwad for the Respondent No.2

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

DATE : 11th AUGUST, 2017

P.C.

1 The above Criminal Application seeks quashing of the proceedings being CC No.3419/PW/2016 pending before the Learned Additional Metropolitan Magistrate, 22nd Court at Andheri Mumbai. The said case has arisen out of the MECR No.01/2015 registered with Sahar Police Station for offences punishable under Sections 498(A), 506(2), 406 r/w 34 of Indian Penal Code.

2 The Applicants are the husband, father-in-law, mother-in-law and sister-in-law of the first informant i.e. the Respondent No.2 herein. The said criminal case is therefore arising out of the matrimonial dispute between the parties. The parties have arrived at a settlement which is evidenced by the fact that the notice of talak issued by the Applicant No.1 dated 8-12-2014 has been accepted by the first informant i.e. the Respondent No.2 and she has been paid

the amount towards iddat of Rs.5000/- which was paid along with the said notice as also alimony of Rs.6,10,000/- in respect of which cheques bearing No.151083 drawn on Central Bank of India, Virar Branch, in the name of the Respondent No.2 for the amount of Rs.4,10,000/- and another cheque of Rs.1,51,085/- drawn on Central Bank of India, Virar Branch, in the name of the Respondent No.2 for the amount of Rs.1,00,000/-. In respect of the remaining amount of Rs.1,00,000/- a statement has been made in paragraph 7 page 11 of the above Criminal Application.

3 The first informant i.e. the Respondent No.2 herein has filed an affidavit bearing today's date i.e. 11-8-2017. In paragraph 5 the notice in respect of talaq and the payment of the iddat has been mentioned as also the fact of acceptance of the said amount. In paragraph 7 it is mentioned that it has been agreed between the parties that sum of Rs.6,10,000/- as full and final settlement towards maintenance. In paragraph 8 the receipt of the amount of Rs.6,10,000/- has been mentioned. Paragraph 12 mentions about the custody of the minor daughter Insha, whose custody would remain with the Respondent No.2 i.e. the first informant. In paragraph 17, it is mentioned that the case has arisen out of the personal disputes between the parties which have been settled amicably. In paragraph 20 it has been mentioned that the aforesaid affidavit is filed by the Petitioner without any kind of force, coercion or any kind of undue influence from any person and there is no collusion

between the parties. It is concluded in paragraph 21 that in view of the amicable settlement between the parties, the proceedings in question being C.C. No.3419/PW/2016 pending before the Learned Additional 22nd Court at Andheri-Mumbai arising out of MECR No.1/2015 be quashed and set aside. Hence the aforesaid affidavit discloses the settlement arrived at between the parties and the reasons as to why the Respondent No.2 is seeking quashing of the FIR. The Respondent No.2 is personally present in Court. She is identified by the Learned Counsel Ms Gaikwad appearing for the Respondent No.2. She is also identified by her Adhar Card No.421155741670. The Respondent No.2 when put in the box and queried, she states that she had affirmed the said affidavit and the signature appearing on the affidavit is her's and she had understood the contentions of the affidavit which have also been explained to her by her Advocate. She has no objection to the proceeding being quashed. Hence in terms of the law laid down by the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Criminal Application, the same is accordingly allowed in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065