

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

CRIMINAL WRIT PETITION NO.3186 OF 2017

Mr. Rajesh Vishwakarma S/o Rambahadur Vishwakarma and others	..Petitioners
Versus	
The State of Maharashtra and another	..Respondents

Mr. A. R. Mourya i/by ARM Legal for the Petitioners.

Mrs. M. H. Mhatre, APP for the State.

Mr. A. H. Yadav, for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.
DATE : 7th SEPTEMBER, 2017**

PC.

1 The above Writ Petition has been filed for quashing the Criminal Case No.2634/PW/2010 arising out of FIR bearing No.200 of 2010 registered with MIDC Police Station for offences punishable under Sections 498-A, 323, 324, 504, 506 and 34 of the Indian Penal Code, 1860 (for short "IPC").

2 The said FIR had arisen out of the matrimonial dispute between the Petitioner No.1 and the Respondent No.2. The Respondent No.2 had filed a proceeding under the Domestic Violence Act in the Learned Metropolitan Magistrate's Court at Andheri being C.C.

No.334/DV/2011. In the said proceeding, the parties have arrived at an amicable settlement which has been reduced into Consent Terms dated 02.08.2017. In the context of the relief sought in the present Petition, clause (6) of the said Consent Terms is material and is reproduced herein under :-

“6. That, upon signing of the present Consent Term today i.e. 02.08.2017, the parties hereto and more specifically the Applicant and the Respondent No.1 undertake with this Hon'ble Court that by consent the parties shall move before the Hon'ble High Court for Quashing of FIR and Charge-sheet in C.C. No.2634/PW/2010 by mutual consent by taking and/or initiating appropriate legal steps as shall be advice and/or the Applicant undertake with this Hon'ble Court that she shall give her consent for quashing the same against all the accused therein which is currently pending before the Ld. Metropolitan Magistrate's 22nd Court at Andheri, Mumbai.”

3 The Respondent No.2 i.e. the first informant has also filed her affidavit dated 07.08.2017 sworn in this Court. Paragraph 3 of the said affidavit is relevant in the contest of the present Petition and the same is therefore reproduced herein under :-

“3. I say that the Parties are staying separately since last 8 Years and now they have settled their matter amicably and currently residing at the address as detailed in the cause title of the above Petition and there is nothing left to keep the subjected Criminal Case bearing No.2634/PW/2010 including the FIR No.200 of 2010, registered by the MIDC Police Station, pending as it is and to carry on with the Trial will humiliate the Parties to the present Petition and as such

I the Respondent grant my irrevocable consent and humbly prays this Hon'ble Court to kindly Quash and set aside the subjected Criminal Case bearing No.2634/PW/2010 including the FIR No.200 of 2010 of 2016, registered by the MIDC Police Station including the Chargesheet thereto on the terms and condition as this Hon'ble Court deems fit and proper.”

4 The Respondent No.2 is personally present in Court. She is identified by the Learned Counsel Mr. A. H. Yadav. She is also identified by her Aadhar Card bearing No.5671 5774 4963. When put in the box and queried, she states that she and the Petitioner No.1 have entered into Consent Terms before the Learned Metropolitan Magistrate on 02.08.2017. She further states that the affidavit which is at page No.44 of the paperbook is hers' and that she has signed the same of her own free will and volition and that the contents of the said affidavit are acceptable to her. The Petitioner No.1 Mr. Rajesh Vishwakarma is also personally present in Court. He is identified by the Learned Counsel Mr. A. R. Mourya. He is also identified by his Aadhar Card bearing No.9127 0471 6308. He also accepts that Consent Terms were filed in the Domestic Violence proceeding on 02.08.2017. The aforesaid facts therefore disclose that the parties have amicably settled their dispute. Having regard to the judgments of the Apex Court in the matter of Gian Singh Vs. State of Punjab & Anr.¹ and Narinder Singh & Ors. Vs. State

1 (2012) 10 Supreme Court Cases 303

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of Punjab & Anr², there is no impediment in allowing the above Petition.

The Petition is accordingly allowed and made absolute in terms of prayer clause (a).

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]