

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.862 OF 2017

Nitin Madanlal Jain & Ors.Applicants
V/s.
The State of Maharashtra & Ors.Respondents

Mr. Vinit Jain with Mr. S.D.Savekar i/by Mr. S.M.Jain, Advocates for Applicants.

Mrs. S.V.Sonawane, APP for the Respondent-State.

Mr. Khush I. Khandelwal i/by Khandelwal Associates, Advocate for Respondent No.2.

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

DATE :- 16TH AUGUST, 2017.

PC. :-

The above criminal application has been filed for quashing of the FIR No.80 of 2017 registered with the Kalachowky Police Station, Mumbai for the offences punishable under Section 498A, 406, 504, 323 read with Section 34 of the IPC. The FIR has arisen out of matrimonial disputes between the petitioner no.1 and the respondent no.2 herein, i.e, the wife. The parties have settled the disputes. As a result of which the respondent no.2 has filed an affidavit which is annexed to the above application at Exhibit 'B'. In

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the context of the reliefs sought in the present application, paragraphs 4,6 and 11 are material which are re-produced hereunder for the sake of ready reference:

“4 I say that after filing, the aforesaid case and registration of the above crime, some of our common relatives and friends made understand both the parties to settle our disputes amicably out of court. Thereafter, the disputes between me and the above named Applicants have been amicably settled, out of Court with the intervention of our common relatives, friends and well-wishers. Thereafter, I have withdrawn the above complaint no.67 of 2017 against the above named Applicants.

6 I say that, as per the compromised which has taken place between us, the further investigation or prosecution against the Applicants is meaningless and would cause the harassment, greater hardship and inconvenience to the Applicants;

11 In the circumstance afore-stated, I say and submit that I have no objection of any nature whatsoever if the application is allowed and the impugned order against the applicants is quashed. In the aforesaid circumstances, I further submit that it is also in the interest of justice and fair-play that applicants should no longer be prosecuted and the impugned order against applicants be quashed.”

2 The said affidavit is running into 12 paragraphs and the said affidavit comprises of the averments in respect of various arrangements made between the couple, i.e., the petitioner no.1 and respondent no.2. In the context of the reliefs sought in the present application, it is not necessary to refer to the affidavit in detail. The said affidavit, therefore, discloses that the parties have amicably resolved their disputes. The respondent no.2, i.e., the first informant is personally present in the Court. She is identified by the learned counsel Mr. Khush Khandelwal. She is also identified by her Adhar Card bearing no.4977 8395 1376. When put in the box and queried, she states that she has read and understood the said affidavit dated 5.8.2017 registered before the Notary Public Mr. Pramod Kumar bearing notarial registration no.47 dated 5.8.2017. She further states that signature on the said affidavit is hers and that she accepts the contents of the affidavit and settlement arrived at between the parties. The applicant no.1 is also personally present in the Court and he is identified by Mr. Suresh M. Jain. He is also identified by his Adhar Card No.8353 9967 1001. He states that he has read the affidavit filed by the respondent no.2 and the settlement mentioned therein is acceptable to him.

3 In terms of the law laid down by 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 in keeping the proceedings pending. Hence, the above criminal application is allowed and made absolute in terms of prayer clause (b) and is accordingly disposed of.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)