

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

CRIMINAL WRIT PETITION NO.3418 OF 2017

Mr. Amol Balkrushna Shinkar and others	..Petitioners
Versus	
The State of Maharashtra and another	..Respondents

Mr. Chetan Alai for the Petitioners.
Mrs. M. M. Deshmukh, APP for the Respondent – State.
Mr. Dushyant Pagare for the Respondent No.2.

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

PC.

1 By the above Petition, the Petitioners seek quashing of the FIR bearing C. R. No.I-241 of 2014 registered with the Ambad Police Station, Taluka Nashik, District Nashik for the offences punishable under Sections 498-A, 323 and 504 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 herein. The parents of the Petitioner No.1 as well as his brother have also been roped in as accused. The parties were before the Family Court and consequently before this Court in Family Court Appeal No.99 of 2016. The parties in the said Family Court Appeal were referred for mediation before the

Learned Senior Advocate practicing in this Court. Before the mediator, the parties arrived at an amicable settlement which was reduced into writing by way of Consent Terms dated 02.08.2017 which have been signed by the Respondent No.2 who was the Appellant and the Petitioner No.1 who was the Respondent in the said Family Court Appeal. The parties in the instant Petition have also filed Consent Terms which are on the same lines as the Consent Terms arrived at before the Learned Mediator on 02.08.2017. The said Consent Terms inter-alia provide for payment of lump-sum amount by way of permanent alimony and the Respondent No.2 herein waiving her rights in respect of the self acquired property of the Petitioner No.1 or the ancestral property. It is further provided by the parties that the effect would be given to the divorce only after said FIR registered with the Ambad Police Station, District Nashik is quashed and set aside. The Respondent No.2 has also filed an affidavit bearing yesterday's date i.e. 06.09.2017. In the context of the above Petition, paragraphs 6, 8 and 9 of the said affidavit are material and are reproduced herein under :-

“6. I agree and hereby declare that I and my husband (Petitioner No.1) have amicably settled all the disputes in the entirety relating to the subject matter of the above mentioned Petition and also agree that I will not litigate or have any kind of dispute, claim any movable or immovable property rights or compensation of any nature in future. I hereby declare that I have withdrawn all the allegations

made against all the Petitioners.

7.....

8. I agree and hereby declare that I am unconditionally and without any force or coercion withdrawing the complaint filed by me against the Petitioner no.1 and his parents (any other person arrayed or to be arrayed as accused) in the Ambad Police Station in F.I.R./C.R. No.241/2014 registered by Ambad Police Station, Nashik.

9. I agree and hereby declare that I shall appear before the Hon'ble High Court, Bombay as and when the aforesaid Writ Petition filed by the Petitioner is listed before this Hon'ble High Court and shall withdraw my aforesaid complaint and give No objection/Consent for quashing of the FIR No.241/2014 of Ambad Police Station, Nashik.”

3 The first informant i.e. the Respondent No.2 is personally present in Court. She is identified by Mr. Dushyant Pagare Learned Counsel appearing for her. She is also identified by her Election Card bearing No.YDE3060266. When put in the box and queried, she accepts the fact that Consent Terms were filed in the Family Court Appeal jointly by her and the Petitioner No.1. She further accepts the fact that the Consent Terms tendered by the Learned Counsel in the above Petition are acceptable to her and that she has signed them of her own free will and volition. She also accepts the fact that the affidavit bearing yesterday's date i.e. 06.09.2017 is hers'. She has understood the contents of the said affidavit and that she has signed the affidavit of her own free will and volition. The Petitioner No.1 i.e. the husband Mr. Amol Shinkar is also

personally present in Court. He is identified by Mr. Chetan Alai Learned Counsel appearing for him. He is also identified by his driving licence bearing No. MH15 20080030118 issued on 04.03.1997 and valid till 03.03.2017. When put in the box and queried, he accepts the fact that the Consent Terms were filed between him and the Respondent No.2 in the Family Court Appeal. He also accepts the filing of the Consent Terms in the above Writ Petition. He states that the said Consent Terms are acceptable to him and that he has signed them of his own free will and volition. Hence, the aforesaid facts disclose the settlement arrived at between the parties. In view of the judgments of the Apex Court in the matter of Gian Singh Vs. State of Punjab & Anr.¹ and Narinder Singh & Ors. Vs. State 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) and is disposed of.

4 The Petitioners to pay costs of Rs.5,000/- to be deposited with the Maharashtra State Legal Aid Fund within four weeks from date and the receipt to be filed in the Registry.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR SCW 2065