

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

CRIMINAL WRIT PETITION NO.3623 OF 2017

Karan S/o. Ashok Sarvade and ors. : Petitioners
versus
The State of Maharashtra and ors. : Respondents.

Mr. A V Sakolkar for the Petitioners.
Mr. J P Yagnik, APP, for the Respondent/State.
Mr. A J Kandarkar for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**
DATE : 19th September 2017

P.C.

1 Mentioned and to be taken out of turned for quashing of the FIR
by consent as the parties are present in Court.

2 The above Writ Petition has been filed for quashing of the FIR
bearing No.217/2015 dated 24/07/2015 registered at the behest of the
Respondent No.2 wife – Mrs. Snehal Karan Sarvade with Warje Police Station,
Pune for the offences punishable under Sections 498A, 406 and 34 of the
Indian Penal Code. The said FIR can be said to have arisen out of the
matrimonial disputes between the Petitioner No.1 and the Respondent No.2
herein who are husband and wife. The parties were before the Family Court in
Marriage Petition No. 570 of 2016 filed by the Petitioner No.1 husband for
divorce under Section 13(1)(ia) of the Hindu Marriage Act.. Pending the said
Marriage Petition, the Respondent No.2 wife had filed Misc. Civil Application

No.27 of 2017 in this Court for transfer of the proceedings from Aurangabad to Pune. It is in the said proceedings that the parties have arrived at a settlement which is recorded in the order dated 22/08/2017 passed by a learned Single Judge of this Court. In the context of the relief sought by way of the above Writ Petition clause (vii) of the order dated 22/08/2017 is material and is reproduced herein under:-

“(vii) The Advocate for the Respondent shall forthwith file a Petition under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.217 of 2015 dated 24th July 2015, registered with Varje Police Station, Pune. The same shall be moved before the appropriate Bench of this Court within one week from the date of decree of divorce passed by the Family Court, Pune. On that day, the Applicant-wife shall remain present and support the quashing of the said FIR.”

It is in terms of the said clause (vii) that the instant Petition for quashing of the FIR has been filed by the Petitioners. It seems that the amount of Rs.12,00,000/- payable to the Respondent No.2 wife has already been deposited in the Family Court by the Petitioner No.1.

3 The Respondent No.2 i.e. the first informant has filed her affidavit bearing today's date i.e. 19/09/2017 which is affirmed before this Court. In the context of the relief sought in the above Writ Petition, paragraph 2 of the said affidavit is material and is reproduced herein under :-

“2 I say that the dispute between us is settled and a Decree of Divorce is already passed on 4th September 2017 in the Family Court, Pune. A Certified copy is still awaited. Hence, I have no objection to quash the FIR lodged by me as observed by this Hon'ble Court in Misc. Civil Application No.27/2017.”

The Respondent No.2 Mrs. Snehal Karan Sarvade is personally present in Court. She is identified by the learned counsel Shri A J Kandarkar. She is also identified by her PAN card bearing No.BHEPM0062L which PAN card is in her maiden name Snehal C Muley. When put in the box and queried, she accepts the fact that the settlement was arrived at before the learned Single Judge of this Court (S J Kathawalla, J) which is recorded in the order dated 22/08/2017. She further accepts the fact that the affidavit tendered by the learned counsel Shri A J Kandarkar is hers and that the contents of the said affidavit are acceptable to her and that she has signed the said affidavit of her own free will and volition.

4 The Petitioner No.1 Karan Ashok Sarvade is also personally present in Court. He is identified by the learned counsel Shri A V Sakolkar. He is also identified by his PAN Card No.BFHPS8171M. When put in the box and queried, he accepts the fact that the settlement was arrived at before the learned Single Judge of this Court (S J Kathawalla, J) which is recorded in the order dated 22/08/2017.

5 The learned counsel for the parties draw our attention to the Judgment and Order of the Family Court dated 04/09/2017 by which order the Marriage Petition has been decreed by consent under Section 13(B) of the Hindu Marriage Act. The said Judgment and Order dated 04/09/2017 of the learned Principal Judge, Family Court No.1, Pune is taken on record and marked as "X" for identification.

6 Having regard to the facts as afore-stated coupled with the affidavit of the Respondent No.2 wife and also having regard to the law laid down by the Apex Court in the matter of Narinder Singh and others vs. State of Punjab and another, reported in 2014 AIR SCW 2065 as also the judgment of the Apex Court in the matter of Gian Singh vs. State of Punjab and anr. reported in (2012) 10 SCC 303, no useful purpose could be served by keeping the proceedings pending. In view of the settlement between the parties, there is no impediment in quashing the FIR No.217 of 2015.

7 The above Writ Petition is accordingly allowed and made absolute in terms of prayer clause (b). The above Writ Petition is accordingly disposed of.

8 The Petitioner No.1 to pay costs of Rs.5,000/- to be deposited with

the Kirtikar Law Library, High Court, Appellate Side, Bombay within six weeks from date and obtain a receipt for the same and file the same in the Registry of this Court.

9 All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]