

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3733 OF 2017**

Madhav Bhagwan Bobade & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Ketan Joshi i/b Ergo Juris for the Petitioner

Mr. A. S. Patil for the Respondent No.2

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

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 22nd SEPTEMBER, 2017**

P.C.

1 The above Writ Petition has been filed for quashing of the FIR bearing C. R. No.35/2016 registered with the Rajarampuri Police Station, Kolhapur for the offences punishable under Sections 498, 323, 504, 506 and 313 read with Section 34 of the Indian Penal Code. The said FIR has arisen out of the matrimonial dispute between the parties. The parties were before this Court in MCA No.125 of 2017 which was filed by the Respondent wife for transfer of the marriage petition from Pune to Kolhapur. In the said proceeding the parties arrived at an amicable settlement which is recorded in the order dated 14-8-2017 passed by the Learned Single Judge of this Court (S. J. Kathawala J.) in terms of the said order the Respondent i.e. the Petitioner No.1 herein to pay an amount of Rs.17,50,000/- to the Applicant i.e. the Respondent No.2

herein in full and final settlement of her claims against the Respondent i.e. the Petitioner No.1 herein. In so far as the present proceedings are concerned clause (iv) of the said order is material and is reproduced herein under. The said order was corrected in so far as clause (iv) is concerned by a Learned Single Judge by order dated 8-9-2017 and the word "Applicant" as substituted by the word "Respondent".

(iv) The Respondent shall file proceedings before this Court seeking quashing of F. I.R. No.35 of 2016 registered with Rajarampuri Police Station at Kolhapur. The Applicant states that she shall appear before this Court and support the quashing of the said FIR. The proceedings shall be filed within ten days from the passing of decree of divorce by the Family Court, Pune.

2 It is pursuant to the said order that the present Writ Petition has been filed in quashing of the FIR and the charge sheet arising therefrom. The Learned Counsel for the Petitioner Mr. Joshi states that the Petition for divorce by mutual consent being PA No.918 of 2015 has also been decreed by the Learned Judge of the Family Court, Pune by judgment and order dated 31-8-2017. The Learned Counsel Mr. Joshi tenders copy of the said judgment and order of the Learned Judge of the Family Court No.4, Pune.

3 The first informant i.e. the Respondent No.2 has filed her affidavit bearing today's date and sworn in this Court. Paragraph 4 of the said affidavit is material and is reproduced hereinunder:

4. I say and submit that I have no more interested to pursue with the complaint / C. R.No.35/2016 filed by me against the Petitioners in the Rajarampuri Police Station, Kolhapur. Now we have amicably settled our dispute between us as per the settlement arrived between us in Misc Civil Application No.125 of 2017 before Lordship Shri S. J. Kathawala J. As per the said consent I don't have any grievance with the Petitioners and therefore I have decided to give consent to quash and set aside the complaint filed by me. We have decided to separate from the marital wedlock between me and the Petitioner No.1.

4 The first informant i.e. the Respondent No.2 is personally present in Court. She is identified by the Learned Counsel Mr. Patil appearing for her. She is also identified by her Adhar Card No.551689394412. The said Adhar Card is in her maiden name Jyoti Dilip Shinde. When put in the box and queried she states that the settlement has been arrived at between her and the Petitioner No.1 and as a consequence she does not desire to proceed with the FIR lodged by her.

5 The Petitioner No.1 Madhav Bobade is personally present in Court. He is identified by Mr. Joshi the Learned Counsel appearing for him. He is also identified by his Adhar Card No.630833003631. When put in the box and queried he accepts the fact that the settlement has been arrived at between the parties.

4 In the light of the facts as afore stated and 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 of Punjab & Anr**², there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the above Criminal Writ Petition pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a) of the above Criminal Writ Petition. The above Criminal Writ Petition is accordingly disposed of.

5 The decree passed by the The Learned Judge of the Family Court No.4, Pune dated 31-8-2017 is taken on record and marked as “X” for identification.

6 The Petitioner No.1 to pay costs of Rs.5,000/- to be deposited with the Kirtikar Law Library, High Court Bombay, within 6 weeks from date. Receipt to be obtained and filed in the registry.

6 The Learned Counsel Mr. A. S. Patil undertakes to file Vakalatnama on behalf of the Respondent No.2 within one week from date. Undertaking accepted.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR scw 2065