

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

WRIT PETITION NO.3861 OF 2017

Ashutosh Sambhaji Rane : Petitioner.
Versus
The State of Maharashtra and anr. : Respondents.

Ms. Manjula Rao I/by Ms.Meena Shah for the Petitioner.
Mr. K V Saste, APP for the Respondent/State.
Mr. Sandesh D Patil i/by Ms. Anusha Amin for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**
DATE : 26th September 2017

P.C.

1 The Petitioner by the above Petition seeks quashing of the FIR No.I – 207/2013 which has given rise to the proceedings before the learned JMFC, Shahapur, District Thane. The said FIR was lodged by the Respondent No.2 herein on account of the matrimonial disputes between the Petitioner and her. The parties were before the Family Court, Mumbai in Marriage Petition No.A-2793 of 2013 which the Petitioner had filed for divorce on the ground of cruelty. It seems that the parties were referred to mediation of Shri Pradip S Chavan, the learned advocate practicing in the Family Court, Mumbai. In the course of the said mediation, the parties arrived at an amicable settlement which was reduced into writing by way of Consent Terms which were signed by the parties on 22/09/2017. In the context of the relief sought in the present Petition, paragraph 10 of the said Consent Terms is material and is reproduced

herein under :-

“Para 10 :- It is agreed that within 15 days from the passing of the Order of quashing/dismissal of the Criminal Complaint/Case/F.I.R. both the parties will appear before this Hon'ble Family Court and they will lead their evidence for Mutual consent divorce and pray for passing of Decree of Divorce in this Petition as per these Consent Terms. The Petitioner and the Respondent agrees that on same day the respondent shall be entitled to withdraw Rs.18,55,000/- deposited in this Hon'ble Court with interest earned, if any.”

2 In terms of the said Consent Terms, the parties had agreed to seek divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Accordingly the said Petition was converted to one for divorce by mutual consent under the said provisions. The learned Judge of the Family Court, Mumbai has allowed the said Marriage Petition by order dated 22/09/2017 and resultantly the marriage between the Petitioner and the Respondent No.2 solemnized on 19th January 2012 was dissolved. The copy of the said order dated 22/09/2017 passed by the learned Judge of the Family Court is annexed at page 21 of the Petition.

3 The Respondent No.2 who is the first informant has filed an affidavit bearing today's date i.e. 26th September 2017 which is sworn in this Court. Paragraphs 7 and 8 of the said affidavit are material and are reproduced herein under :-

Para 7 : I say we have amicably settled the matter and have filed consent terms in the Hon'ble Family Court. I say that I have no objection in quashing of the FIR No.I-207/2013 pending before the the learned Counsel appearing for the. Magistrate, Shahapur, Thane.

Para 8 : I therefore pray the the learned Counsel appearing for the Hon'ble High Court to be pleased to quash the FIR No.I-207/2013 pending before the the learned Counsel appearing for the. Magistrate, Shahpur, Thane”

The Respondent No.2 is personally present in Court. She is identified by Shri Sandesh Patil, the learned counsel appearing for her. She is also identified by her Aadhar Card bearing No.5206 7984 1670. When put in the box and queried, she states that the parties have arrived at an amicable settlement and that the Consent Terms were executed between the parties before the learned mediator. She further states that the affidavit tendered by the learned counsel Shri Sandesh Patil is hers and she has understood the contents of the said affidavit and that she signed the said affidavit of her own free will and volition.

4 The Petitioner has also filed an affidavit dated 25/09/2017 which is sworn in this Court. In the said affidavit antecedent facts relating to the filing of the Consent Terms etc. have been mentioned. It is further mentioned in paragraph 6 of the said affidavit that he is scheduled to leave Mumbai on 26/09/2017 i.e. today to resume duty as Chief Officer in the Merchant Navy.

The Petitioner is accordingly not present before this Court today. However, the learned counsel appearing for the Petitioner Mrs. Manjula Rao produces the Aadhar Card of the Petitioner bearing No.4801 2846 4985. The father of the Petitioner Shri Sambhaji Gangaramrao Rane is present in Court. He is identified by the learned counsel Mrs. Manjula Rao. He is also identified by his Aadhar Card bearing No.7551 4441 5198. He has remained present before this Court to confirm the filing of the Consent Terms between the parties. When put in the box and queried he states that an amicable settlement has been arrived at between his son i.e. the Petitioner and the Respondent No.2 and that he is aware of the said settlement.

5 Hence reading of the affidavits disclose that the parties have amicably resolved the dispute. Having regard to the law laid down by the Apex Court in the matter of Narinder Singh vs. State of Punjab, 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 would be served by keeping the proceedings pending. There is now no impediment in quashing the proceedings in view of the amicable settlement arrived at between the parties.

6 The learned counsel appearing on behalf of the Petitioner Mrs. Manjula Rao states that the Petitioner withdraws all the allegations made

against the Respondent No.2 which include the allegations made in paragraph 2(ii) of the Petition. Statement accepted.

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

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]