

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

CRIMINAL APPLICATION NO.670 OF 2018

Bhartesh Kuber Bhivate and ors. : Applicants.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. Hrishikesh Mundargi I/by Ms. Shradha Sawant for the Applicants.
Mr. V B Konde-Deshmukh, Addl. PP for the Respondent/State.
Mr. Tejas Hilage for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 06th JULY 2018

P.C.

1 At the outset the learned counsel for the Applicants Shri Hrishikesh Mundargi seeks leave to amend so as to incorporate “mentioning of the charge-sheet” in prayer clause (a). Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the FIR and charge-sheet arising out of C.R. No.121 of 2016 registered with Shahupuri Police Station, Kolhapur on 13/03/2016 for the offences punishable under Sections 323, 498A, 504, 506, 509 r/w 34 of the Indian Penal Code.

3 The said CR has been arisen in view of the marital discord between the Applicant No.1 and the Respondent No.2 herein who are husband and wife. The parties were before the Family Court, Kolhapur in Marriage

Petition (A) No.20 of 2016 which has been filed by the Applicant No.1 and the Respondent No.2 herein for seeking divorce by mutual consent under Section 13(B) of the Hindu Marriage Act. We are informed by the learned counsel for the Applicants that the said Marriage Petition is to come up tomorrow i.e. on 07/07/2018 before the Family Court, Kolhapur.

4 The Respondent No.2 has filed an affidavit dated 28/06/2018 affirmed before Bidhu Panicker, Advocate High Court, Notary (Govt. of India) having his residential address at 303, Sandeep Apt. Plot No.A/197, Sector-20, Near Balaji Temple, Nerul (W), Navi Mumbai, Maharashtra having notarial registration No.5297 of 2018. In the context of the relief sought in the above Criminal Application, paragraph 6 of the said affidavit is material and is reproduced herein under :-

“6 Therefore, this short affidavit in support of petition/Application for quashing of proceedings FIR in Crime No.121/2016 dated 13-03-2016 registered with Shahupuri Police Station, Kolhapur u/Sec. 498A, 323, 504, 506, 509 r/w 34 of the Indian Penal Code before this Hon'ble Court to secure the ends of justice.”

5 The Respondent No.2 - Amruta Bhartesh Bhivate is personally present in Court. She is identified by the learned counsel Shri Tejas Hilage. She is also identified by her Aadhar Card bearing No.851792179000. When put in the box and queried she states that she has read and understood the contents

of the said affidavit which is tendered by her learned counsel today in Court. She further states that she does not want to proceed with the case in question in view of the settlement arrived at between the parties. She lastly states that she has filed the said affidavit of her own free will and volition.

6 The Applicant No.1 – Bhartesh Kuber Bhivate is also personally present. He is identified by the learned counsel Shri Hrishikesh Mundargi I/by the Advocate on record Ms. Shardha Sawant. He is also identified by his Aadhar Card bearing No.636757632441. When put in the box and queried, he accepts the factum of settlement between him and the Respondent No.2 as a result of which the Respondent No.2 does not desire to proceed with the case in question.

7 Having regard to the Petition for divorce by mutual consent filed by the Applicant No.1 and the Respondent No.2 in the Family Court, Kolhapur, the affidavit filed by the Respondent No.2, and the statements made by the Respondent No.2 and the Applicant No.1 when put in the box and queried, the same indicate that the parties have settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the case in question.

8 Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s State of Punjab & Anr reported in (2012) 10 SCC 303 and

Narinder Singh & ors v/s. State of Punjab & Anr reported in *2014 AIR SCW 2065*, no useful purpose would be served in keeping the proceedings pending.

9 The above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

10 In the facts and circumstances of the present case, the Applicants to deposit costs of Rs.20,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry of this Court.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]