

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 2 OF 2018**

Vikas Ramdular Maurya & Ors

..Applicants

Vs.

The State of Maharashtra & Ors

..Respondents

Mr. M. P. Mishra for the Applicants

Mr. Sushil Kumar S. Upadhyay for the Respondent No.3

Mrs. P. P. Shinde APP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 16th MARCH, 2018

P.C.

1 The above Criminal Application has been filed for quashing of the proceedings being CC No.1708/PW/2013 pending on the file of the Learned Metropolitan Magistrate, Andheri Mumbai, for the offences punishable under Sections 498(A), 406, 420, 506 (20), 34 of the IPC. The said FIR arisen out of the matrimonial disputes between the Petitioner No.1 and the Respondent No.3 who are husband and wife. It seems that the parties were before the Family Court in Marriage Petition No.A-701-13 which was initially filed for divorce on the ground of cruelty. The parties in the said Petition arrived at Consent Terms, english translation of which is annexed at Exhibit C page 81. The said Consent Terms can be said to evidence the settlement arrived at between the parties. The parties have agreed to obtain divorce by mutual consent. By clause (6) of the Consent Terms the Respondent No.2 herein has agreed to co-operate in quashing of the proceedings which are pending before

the Learned Metropolitan Magistrate. The Respondent No.2 has also filed affidavit cum declaration dated 22-12-2017. In the context of the present Application, paragraph (7) of the said affidavit is material and is reproduced hereinunder:

7. I further say I do not want to prosecute the petitioners in the above said case and settled the matter amicably without any pressure from any one in view of the consent terms dated 22-9-2017. I am filing this affidavit-cum-declaration to put up above said facts on record and pray that the above said Writ petition of the petitioners be allowed and Court Case No.1708/PW/2013 and Metropolitan Magistrate Railway Mobile Court at Andheri Mumbai be quashed.

Hence the reading of the Consent Terms and the affidavit dated 22-12-2017 filed by the Respondent No.3 indicates that the parties have mutually resolved their dispute.

2 The Respondent No.3 is personally present in Court. She is identified by the Learned Counsel Mr. Upadhyay. She is also identified on the basis of photo copy of her Adhar Card No.759293484056 which is in her maiden name Sunita Shivpujan Maurya. When put in the box and queried, she states that she has understood the Consent Terms and she has been read over and explained the affidavit which has been annexed to the above Petition. She further states that she has understood the contents of the said affidavit and that she has signed the same of her own free will and volition. She states

that she can sign in english, which she has accordingly done.

3 The Applicant No.1 Vikas Maurya is personally present in Court. He is identified by the Learned Counsel Mr. Mishra. He is also identified by his Adhar Card No.900162301264. When put in the box and queried he reiterates that settlement has been arrived at between him and the Respondent No.3 his wife as a result of which the Respondent No.3 has filed the affidavit.

4 Hence the statements made by the Respondent No.3 and the Applicant No.1 when put in the box and queried indicate that the parties have amicably resolved their dispute. The parents of the Applicant No.1 are also present, however, in view of the statement recorded of the Applicant No.1, need to record the statements of the parents is obviated. 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 Application. No useful purpose would be served in keeping the proceedings pending, the above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065