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

CRIMINAL APPLICATION NO.104 OF 2018

Rajesh Pandurang Warlikar and Ors.	...Applicants
Versus	
The State of Maharashtra and Anr.	...Respondents

Ms.Gulestan M. Dubash, for the Applicants.

Mr.R.M.Pethe, A.P.P for the Respondent-State.

Mr.Sagar B. Mohite i/b Mrs.Surekha P. Surve, for the Respondent No.2.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 7th JUNE, 2018

P.C. :

1. The above Application has been filed for quashing of the proceedings being C.C. No.577/PW/2014, pending on the file of the learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai. The said case has arisen out of the C.R. bearing No.150 of 2013 registered with Jogeshwari Police Station, Mumbai, for the offences punishable u/s 498(A), and 34 of the Indian Penal Code. The said FIR has arisen out of the

matrimonial dispute between the Applicant No.1-Rajesh Pandurang Warlikar and the Respondent No.2 – Sneha Rajesh Warlikar who are husband and wife. It is not necessary to dilate further on facts. It seems that the parties were before the Family Court at Bandra in Marriage Petition No.F-2375 of 2016, which is a Petition filed for Divorce by mutual consent. In the said Petition, the parties arrived at Consent Terms, which are dated 8th November, 2016. In the context of the reliefs sought in the above Application, clause – 6 of the said Consent Terms is material and is reproduced herein under :-

“6. The petitioner no.2 agrees that she will withdraw the cases under the D. V. Act and 498-A of IPC at Andheri filed against the petitioner no. 1 within six months.”

2. The parties have thereafter filed Additional Consent Terms on 7th November, 2017, however, the same are not material for the purposes of the present Application. The Respondent No.2 i.e. the first informant has filed an affidavit, which is sworn in this Court on 22nd January, 2018. Paragraph 8 of the said affidavit is material and is reproduced hereinunder:-

“8. I say and submit that I have no objection if this Hon'ble

Court allows the present Criminal Application of the Applicants and the said complaint/case C. R. No. 150 of 2013 registered at Jogeshwari Police Station, Mumbai as well as proceedings being C. C. No. 577/PW/2014 pending in the Ld. Metropolitan Magistrate, 10th Court at Andheri, Mumbai is quashed.”

3. The Respondent No.2 is personally present in Court. She is identified by the learned Counsel Mr.Sagar Mohite. She is also identified by her Pan Card bearing No. AARPW2801L. When put in the box and queried, she accepts the factum of the parties having entered into the Consent Terms before the Family Court, as a result of which the marriage between her and the Applicant No.1 is to be dissolved by decree of divorce by mutual consent. She further states that the affidavit which has been filed in the above Application is hers and that she has filed the said affidavit of her own free will and volition. The Applicant No.1 - Rajesh Pandurang Warlikar is also personally present in Court. He is identified by the learned Counsel Ms.Gulestan Dubash. He is also identified by his Aadhar Card bearing No. 8032 5211 9342. When put in the box and queried, he accepts the factum of settlement arrived at between the parties, as a result

of which the Respondent No.2 has filed an affidavit wherein she has consented to the quashing of the proceedings in question by consent.

4. Having regard to the Consent Terms arrived at between the parties before the Family Court, as also the statements made by the Respondent No.2 and the Applicant No.1 when put in the box and queried and in view of the affidavit which has been filed by the Respondent No.2 in the above Application, the same indicates that the parties have settled their dispute by mutual consent and the First Informant i.e. the Respondent No.2 is therefore not desirous of proceeding with the case in question in the trial Court.

5. Having regard to the judgments of the Apex Court in the matters of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², no useful purpose would be served in keeping the proceedings pending.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

6. The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (B).

7. The above Criminal Application is accordingly disposed of.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)