

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 109 OF 2018**

Hiren Ashok Jhurani & Ors.	...Applicants
Versus	
Prachi Hiren Jhurani & Anr.	...Respondents

Mr. G. S. Shadadpuri for the Applicants

Ms. Shaba N. Khan i/b Govilkar & Associates for the Respondent No.1

Mrs. P. P. Shinde, A.P.P for the Respondent No.2-State

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
THURSDAY, 19th JULY, 2018***

P.C. :

1 The above Application has been filed for quashing of the FIR being No. 72 of 2013 registered with the Navhgar Police Station, Mulund, for the offences punishable under Sections 498A, 406 and 34 of the Indian Penal Code, 1860 and the subsequent proceedings arising therefrom which are pending on the file of the learned Metropolitan Magistrate, 27th Court, Mulund, being Case No. 92/PW/2014. The said FIR was on account of the marital discord between the Applicant No. 1 and the Respondent No. 1, who are husband and wife. The parties, it

seems, are also before the Family Court in Marriage Petition No. A-1160 of 2013, in which Petition, they have filed Consent Terms for seeking divorce by mutual consent. In terms of the said Consent Terms and especially clause (6) thereof, the Respondent No. 1 herein has undertaken to withdraw/quash the criminal case filed by her under Section 498A of the Indian Penal Code. The said matrimonial proceedings are kept pending as the decree for divorce, we are informed, would be passed after the proceedings under Section 498A are quashed by this Court.

2 The Respondent No. 1 herein has filed an affidavit affirmed before Bidhu Panicker, Advocate High Court and Notary having his Office at Sector 20, Near Balaji Temple, Nerul (West), Navi Mumbai. The said affidavit is dated 22nd March 2018 and bears the notarial registration No. 2442 of 2018 in Book No.II and bears the date 22nd March 2018. The Respondent No.1-Prachi Jhurani is personally present in Court. She is identified by the learned counsel Ms. Shaba Khan h/f Mr. Govilkar. She is also identified by her Aadhar Card bearing No. 247104561932. When put in the box and queried, she

states that she has read the contents of her affidavit dated 22nd March 2018. She further states that she has understood the said contents. She states that she has filed the affidavit in view of the settlement between the parties. She lastly states that she has filed the said affidavit of her own free will and volition.

3 The Applicant No. 1-Hiren Jhurani is also personally present in Court. He is identified by the learned counsel Mr. G. S. Shadadpuri. He is also identified by his PAN Card bearing No.AHQPJ4933N. When put in the box and queried he accepts the factum of the settlement between the parties, as a result of which, the Respondent No. 1 is not desirous of proceeding with the case in question. He assures the Court that he would remain present in the Family Court on the next date so as to facilitate the Family Court passing a decree in the Marriage Petition. Statement accepted.

4 Having regard to the Consent Terms filed by the parties before the Family Court dated 6th July 2017, the affidavit filed by the Respondent No.1 dated 22nd March 2018 and the statements made by

the Respondent No. 1 and the Applicant No. 1 when put in the box and queried, the same indicate that the parties have settled their dispute and what is remaining is only the decree of divorce by mutual consent being passed by the Family Court. The said facts, therefore, indicate that no useful purpose would be served in keeping the proceedings pending. In the said context, a useful reference can be made 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, which would assist in quashing of the proceedings. The above Criminal Application is, therefore, required to be allowed and is accordingly allowed in terms of prayer clause (a).

5 The above Criminal Application is accordingly disposed of.

6 We are informed that the Marriage Petition is to come up before the Family Court on 14th August 2018. We direct that the Family Court may, as far as possible, pass final orders on the said day.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

7 In the facts and circumstances of the case, the Applicants to deposit costs of Rs.20,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the Registry.

8 The benefit of this order would enure to the Applicants only if the costs are deposited. If the costs are not deposited as directed by the instant order, then the benefit of this order would not enure to the Applicants and the result would be that the proceedings would stand revived.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.