

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.131 OF 2017**

Chandrakant Ishwarlal Panchal and ors. : Applicants.
Versus
State of Maharashtra and anr. : Respondents.

Mr. Shailendra Kumar Singh for the Applicants.
Mrs. A S Pai, Addl. PP for the Respondent/State.
Mr. Ganesh Gole for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.**
DATE : 12th FEBRUARY 2018

P.C.

1 The above Criminal Application has been filed for quashing of the proceedings being CC No.1856/PW/2013 pending before the learned Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The said proceedings have arisen out of the FIR being No.392 of 2012 registered with Borivali Police Station, Mumbai for the offences punishable under Sections 465, 467, 471, 505 r/w 34 of the Indian Penal Code and under Sections 65 and 66 of the Information and Technology Act.

2 The said FIR had arisen out of the matrimonial disputes between the sister of the First Informant i.e. the Respondent No.2 herein and the Applicant No.5 who is her husband. It seems that at the same contemporaneous time another FIR was registered being 86 of 2012 for the offences punishable under Sections 498A, 323, 406, 506 r/w 34 of the Indian Penal Code. A Division Bench of this Court (Coram : A S Oka and Smt. Anuja

Prabhudessai, JJ) by an order dated 22/02/2017 has quashed the said FIR in view of the settlement between the parties which was reduced into writing by way of Settlement Deed a copy of which was annexed at Exhibit C to the said Criminal Application No.132 of 2017. In so far as the present Criminal Application is concerned, it seems that the First Informant Mr. Hiren D Chauhan is in the United Kingdom. An Affidavit dated 06/02/2018 has accordingly been filed which has been affirmed before Mr. Paul Chen, Solicitor, having his office at Beemans Solicitors, 79 College Road, Harrow, Middlesex, HA1 1BD. The Applicants and the Respondent No.2 rely upon the same Settlement Deed as relied upon in Criminal Application No.132 of 2017. However, in so far as the present Criminal Application is concerned, paragraph 8 of the said affidavit dated 06/02/2018 is material and is reproduced herein under :-

“8 I say that I am filing this affidavit on my own free will and therefore I give my complete consent to the prayers made by the present Applicants in their aforementioned application for quashing of the FIR bearing C.R.No.392 of 2012, registered with Borivali Police Station against the Applicant for offences punishable under Sections 465, 468, 471, 505, 34 of the Indian Penal Code and Section 65, 66 of the Information and Technology Act and any proceedings arising thereof, without any force or coercion.”

3 Since the First Informant i.e. the Respondent No.2 is residing in the United Kingdom his Power of Attorney Dr. Daksha Dhirajlal Chauhan has produced the Power of Attorney dated 20/04/2013 given to her by the

Respondent No.2. In clause 2 of the said Power of Attorney the number of the present FIR being C.R.No.392 of 2012 is mentioned so as to facilitate the prosecution of the said FIR. A photocopy of the said Power of Attorney is taken on record and marked as X for identification. When put in the box and queried, Dr.Daksha Chauhan states that she is aware of the affidavit dated 06/02/2018 filed by her brother. She identifies the signature of her brother on the said affidavit.

4 The father of the Applicant No.5 Mr. Chandrakant Panchal is personally present in Court. He is identified by the learned counsel Mr.Shailendra Kumar Singh. He is also identified by his PAN Card bearing No.AAGPP7629G. When put in the box and queried he reiterated that there is a settlement between the parties as a consequence of which the Respondent No.2 has filed the said affidavit dated 06/02/2018.

5 In view of the fact that the father of the Applicant No.5 and the sister of the Respondent No.2 have stepped into the box and made the statements as recorded above, it is not necessary to record the statements of the other Applicants.

6 Having regard to the Settlement Deed (Exhibit C) arrived at between the parties which is the same Settlement Deed which was relied upon

by the Division Bench in Criminal Application No.132 of 2017 as also having regard to the affidavit dated 06/02/2018 filed by the Respondent No.2 and the statement made by the sister of the Respondent No.2 Dr. Daksha Chauhan and the father of the Applicant No.5 Mr. Chandrakant Panchal it is clear that the parties have settled their disputes as a result of which the Respondent No.2 is not desirous to proceed with the proceedings pending in the Court of the learned Metropolitan Magistrate, Borivali, Mumbai.

7 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.

8 The above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a). The Applicants to deposit costs of Rs.25,000/- and the Respondent No.2 to deposit costs of Rs.25,000/- total amounting to Rs.50,000/- with Mumbai Police Welfare Fund in the office of the Commissioner of Police, Mumbai within six weeks from date and the receipts to be obtained and filed in the Registry of this Court. The above Writ Petition is accordingly disposed of.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]