

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

CRIMINAL APPLICATION NO.187 OF 2018

Sumeet Sanjay Gosavi & Anr.

.... Applicants

versus

State of Maharashtra & Anr.

... Respondents

.....

- Mr.Vivek Joshi, Advocate for the Applicants.
- Respondent No.2 present.
- Mr.J.P. Yagnik, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 05th APRIL, 2018.**

P.C. :

1. The above Application has been filed for quashing of the FIR bearing No.I-329/16 registered with Kapurbavdi Police Station, Thane, on 29/10/2016, for the offences punishable u/s 498-A, 506 and 34 of the Indian Penal Code. The said FIR has arisen out of matrimonial dispute between the Applicant No.1 and the Respondent No.2, who are husband and wife. The parties were before the Family Court, Thane in a Marriage

Petition filed for divorce on the ground of cruelty by the Applicants herein. In the said Marriage Petition the parties have arrived at a settlement, which is reduced into writing by way of Consent Terms dated 19/01/2018 and which were filed in the Family Court on the said date. In terms of the said Consent Terms and especially clause (d) thereof the Applicant husband has agreed to make a one time payment of Rs.5 lakhs towards full and final settlement of the past, present and future maintenance of the Respondent No.2/wife. In terms of the relief sought in the above Application, clause (h) of the Consent Terms is material and is reproduced herein;

“(h) The Respondent had filed an FIR No I 329(16) under section 498a, 506 R/W Section 34 of Indian Penal Code. The said FIR has been lodged at Kapurbawdi Police Station. The respondent states that after the amended petition and deposit of Rs.5,00,000.00, the respondent will cooperate in getting the said FIR / Charge sheet Quashed. The petitioner will file a Writ Petition before the Hon'ble Bombay High Court for Quashing of the above referred FIR / Charge Sheet. The

respondent agrees to appear before the Hon'ble Bombay High Court and give her consent for quashing of the said FIR/Charge sheet.

2. After clause (h) in clause (i) it has been stated that after quashing of the FIR the Applicant and the Respondent would appear before the Family Court and file an Application/Evidence for divorce by mutual consent. The Applicants and the Respondent have filed identical affidavits both bearing today's date i.e. 05/04/2018 and affirmed in this Court. In both the affidavits the identification of the Applicants is by Advocate Mr.Vivek Joshi, who is the Advocate for the Applicant/Husband. In the context of the relief sought in the above Application, paragraph No.6 of the said affidavit is material, which is reproduced herein for the sake of ready reference;

“6. I say that after complying with the consent terms, I have filed the current Application for Quashing of FIR No: I-329 of 2016, at Kapurbawdi police station. I say that the Learned Police authorities have not filed any charge sheet till now.”

3. The Respondent No.2 Himani Sumeet Gosavi is personally present in Court. She is identified by the Applicant Sumeet Sanjay Gosavi, who is also personally present in Court. She is further identified by her PAN Card bearing No.BGOPB3908H, which is in her maiden name Himani Ashok Bharti. When put in box and queried, she states that the parties have arrived at a settlement, as a result of which, the Consent Terms have been filed in the Family Court. She further states that the contents of the Consent Terms are acceptable to her and that she has signed the Consent Terms out of her free will and volition.

4. Insofar as the affidavit which is tendered across the bar by learned Counsel Mr.Vivek Joshi is concerned, she states that she has read and understood the contents of the said affidavit. She further states that she has filed the said affidavit voluntarily without any force and coercion.

5. The Applicant No.1 is also personally present in the Court. He is identified by the learned Counsel Mr.Vivek Joshi. He is also identified by his Aadhar Card No.8926 1812 1386. When put in box and queried, he accepts the factum of the Consent Terms being filed in the Family Court. He further states that the affidavit tendered by the learned Counsel Mr.Vivek Joshi is his and that the contents of the said affidavit are acceptable to him. He has signed the said affidavit out of his free will and volition. Hence the Consent Terms filed in the Family Court, with the affidavit filed by the Applicant No.1 and the Respondent No.2 in the above Application and further coupled with the statement made by the Applicant No.1 and the Respondent No.2, when put in the box and queried, the same unequivocally indicates that the parties have settled the dispute, as a result of which, the Respondent No.2 does not desire to proceed with the FIR in question.

6. 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, there is no impediment in allowing the above Criminal Application. No useful purpose would be served in keeping the proceedings pending.

7. The above Application is accordingly allowed in terms of prayer clause (a). The criminal proceedings in FIR No.I-329/16 against the Applicant Nos.1 and 2, would accordingly stand quashed and set aside. The Applicants to deposit costs of Rs.5,000/- with the District Legal Services Authority, Thane, within a period of six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)