IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 792 OF 2018

Shri Hussain Akbarali Virji & Ors ..Petitioners
Vs.
The State of Maharashtra & Anr ..Respondents

Mr. Sayed Shamim i/b Shamim & Co. for the Petitioners
Mr. Murtza Slatewala for the Respondent No.2
Mrs. M. M. Deshmukh Addl PP for the Respondent State

CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 25th APRIL, 2018

P.C.

1 The above Petition is at Serial No.41 but is mentioned out of turn as quashing of the FIR by consent.

2 The above Petition has been filed for quashing and setting aside of the charge sheet which has arisen out of the FIR No. 387 of 2016 dated 12-6-2016 registered with the D. N. Nagar Police Station for the offences punishable under Sections 489A, 406 read with 34 of the Indian Penal Code, 1860. The said FIR in turn has arisen on account of the matrimonial dispute between the Petitioner No.1 and the Respondent No.2 who are husband and wife. It seems that the community leaders of the community to which the parties belong have intervened and they have agreed to dissolve the marriage between the

Petitioner No.1 and the Respondent No.2 on the condition that the present proceedings filed against the Petitioner and his family members is quashed and set aside. The first informant i.e. the Respondent No.2 has filed an affidavit in the above Petition which is dated 3-3-2018 which is affirmed before the notary Hari Prasad Mishar, Notary Government of India. The said affidavit bears the notarial register No.1372/2018. In the context of the relief sought in the above Petition paragraphs 4 and 5 of the said affidavit are material and are reproduced hereinunder. However, preceding the said paragraphs the Respondent No.2 has in the earlier paragraphs adverted to the intervention of the community leaders to resolve the dispute. She has further mentioned that she has received all her ornaments, articles documents etc from the Petitioner No.1.

> 4. I say that I am consenting for quashing of FIR o.387/16 dated 12-6-2016 filed by me against the Petitioner.
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> 5. I therefore pray that the present Writ Petition for quashing of the aforesaid FIR No.387/16 dated 12-6-2016 be allowed by this Honourable Court for this kind Act I shall be highly grateful of this Honourable Court.

2 The Respondent No.2 Farzana Hussain Virji is personally present in Court. She is identified by the Learned Counsel Mr. Murtaza Slatewala. She is identified by her Adhar Card bearing No. 538896635935. When put in the box and queried, she states that she has read and understood the contents of

the said affidavit and that she has signed the said affidavit of her own free will and volition. Lastly she states that she does not want to proceed with the FIR in question in view of the settlement between the parties.

3 The Petitioner No.1 Hussain Akbarali Virji is personally present in Court. He is identified by the Learned Counsel Mr. Shamim. He is also identified by his Adhar Card bearing No.293948779581 . When put in the box and queried he accepts the factum of settlement between him and the Respondent No.2

4 The father of the Respondent No.2 Afiz Poonawala is also personal present in Court. He is identified by the Respondent No.2 as indicted above who is his daughter. He further confirms what has been stated by the Respondent No.2. He accepts that there is a settlement between the parties as a result of which the Respondent No.2 does not desire to proceed with the case in question.

5 The father of the Petitioner No.1 and the mother of the Respondent No.2 are also personally present in Court. It is not necessary to record their statements in view of the statements of the Respondent No.2 and the Petitioner No.1 which have already been recorded and which have been adverted to hereinabove.

4 Having regard to the affidavit filed by the Respondent No.2, the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried, the same indicate that the parties have settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the FIR in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr**[1] and **Narinder Singh & ors v/s. State of Punjab & Anr**[2], no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the charge sheet would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

5 The Petitioner No.1 and the Respondent No.2 to deposit costs of Rs.10,000/- each totalling to Rs.20,000/- with the Mumbai Police Welfare Fund in the office of the Commissioner of Police, within 6 weeks from date. Receipt to be obtained and filed in the registry.

[SARANG V. KOTWAL, J] **[R.M.SAVANT, J]**

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1 **(2012) 10 SCC 303**

2 **2014 AIR SCW 2065**