

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 231 OF 2018**

Suhail Aalam @ Suhail Akhtar Ansari & Ors

..Applicants

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. A. N. Pathan for the Applicants

Mrs. Aneeta Vasani i/b Pandey & Co. for the Respondent No.2

Mrs. M. M. Deshmukh Addl PP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 22nd MARCH, 2018

P.C.

1 The above Criminal Application has been filed for quashing of the FIR being C. R. No.562 of 2015 registered with the Andheri Police Station for offences punishable under Section 498A, 406, 504, 506(2) and 34 of the IPC. The said FIR has arisen out of the matrimonial disputes between the Applicant No.1 and the Respondent No.2 who are husband and wife. The Respondent No.2 had also filed proceedings under the Domestic Violence Act for maintenance in the said proceedings. In the said proceedings the parties have arrived at a settlement which was reduced into writing by way of Consent Terms dated 27-2-2018. In the context of the relief sought in the instant Application clauses (a) and (b) of the Consent Terms are material and are reproduced hereinunder:

(a) That it is mutually agreed by and between the parties that they all shall withdraw the entire criminal/matrimonial proceedings including FIRs,

N. C. s, suit, petition filed against each other till date at Andheri Police Station or any other Police Station or before any court of law.

(b) That Applicant have also agreed to withdraw the FIR and give her no objection for closure/quashing of the FIR bearing C. R. No.562 of 2015 registered at Andheri Police Station for offences punishable u/s 498(A), 506(II) r/w 34 of IPC filed by her against the Respondent.

2 The Respondent No.2 has also filed an affidavit bearing today's date i.e. 22-3-2018 and affirmed before Mrs. Aliya Pathan, Notary, Greater Mumbai, Government of India and entered in the Notarial Register No.29292 dated 22-3-2018. In paragraph 4 of the said affidavit, the affiant has stated that the dispute between the parties is settled on account of the intervention of the elder members of the family, that she has received 7 Demand Drafts for the sum of Rs.13 lacs from the Applicants towards the full and final settlement of her claim for alimony and that she has also withdrawn the proceedings under the Domestic Violence Act being C.C. No.296/DV/2015 before the Learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai pursuant to the Consent Terms dated 27-2-2018. The said affidavit culminates in paragraph 7 which reads thus:

7. I say that I do not want to prosecute FIR No.562/2015 u/s 498(A), 504, 506(ii) r/w 34 of IPC registered by Andheri Police Station and consenting for quashing the same.

3 Hence the affiant has unequivocally stated that she does not

desire to proceed with the FIR being No.563/2015 lodged by her. The first informant i.e. the Respondent No.2 Mrs. Tarannum Ansari is personally present in Court. She is identified by the Learned Counsel Ms Anita Vasani i/b Pandey & Co. She is also identified by her Adhar Card bearing No.783063837775. When put in the box and queried she accepts the factum of the Consent Terms being filed before the Learned Metropolitan Magistrate 65th Court, Andheri Mumbai. She further states that the affidavit tendered by the Learned Counsel Ms Vasani today is her's and that she has understood the contents of the said affidavit and that the said contents are acceptable to her. She states that she does not want to proceed with the FIR in view of the settlement arrived at between the parties.

4 The Applicant No.1 Sohail Ansari is personally present in Court. He is identified by the Learned Counsel Mr. A. N. Pathan. He is also identified by his Adhar Card bearing No.328759181919. When put in the box and queried, he states that it is on account of the out of the court settlement arrived at between the parties that the Respondent No.2 does not desire to proceed with the FIR lodged by her. Though other Applicants are present, it is not necessary to record their statement in view of the fact that the Applicant No.1 and the Respondent No.2 are the main contesting parties.

5 Hence filing of the Consent Terms by the parties before the

Learned Metropolitan Magistrate 65th Court, Andheri Mumbai, the affidavit filed by the Respondent No.2 and in view of the settlement made by the Respondent No.2 and the Applicant No.1, the same leads to the conclusion that the parties have amicably settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the FIR lodged by her. Having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Criminal Application. No useful purpose would be served in keeping the proceedings pending, the above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (d). The above Criminal Application is accordingly disposed of.

6 The Applicants to deposit costs of Rs.5000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

7 The Consent Terms which are paginated from 1 to 4 are taken on record and marked as “X” for identification.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065