

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 793 OF 2013**

Prashant Vijay Panpatil & Ors. ...Petitioners
Versus
Priyanka @ Rupali Prashant Panpatil & Anr. ...Respondents

Mr. Anilkumar S. Patil for the Petitioners

Mr. M. N. Sandhyanshiv for the Respondent No. 1

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

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
FRIDAY, 29th JUNE, 2018***

P.C. :

1 The above Petition is listed on the final hearing board at Serial No. 245. At the request of the learned counsel for the parties, taken out of turn in view of the settlement between the parties.

2 The above Writ Petition has been filed for quashing and setting aside the FIR No. 291 of 2012 registered with the Upnagar Police Station, Nashik for the offences punishable under Sections 498A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code.

3 The said FIR is a consequence of the marital discord between the Petitioner No. 1 and the Respondent No. 1, who are husband and wife. The other Petitioners are the relations of the Petitioner No. 1 being his father, mother, brother, etc. It is not necessary to dilate further on facts. The parties have filed Hindu Marriage Petition being No. 563 of 2017 in the Court of the learned Civil Judge, Senior Division, Malegaon, for seeking divorce by mutual consent. In the said Petition, in paragraph 6, there is a reference to the instant Writ Petition and the FIR which has been lodged for the offences punishable under Sections 493 and 406 i.e. the instant FIR. We are informed by the learned counsel for the parties that the said Petition is to come up on 2nd July 2018 for passing of final orders, as regards grant of divorce by mutual consent. This is in terms of the order dated 27th December 2017 passed by the learned Civil Judge, Senior Division, Malegaon.

4 The Respondent No.1 herein has filed an affidavit bearing today's date and affirmed in this Court today before Mrs. Aliya N. Pathan, Notary bearing notarial registration No. 30560. In the context

of the relief sought in the above Writ Petition, paragraph 2 of the said affidavit is material and is reproduced herein under.

“2. Now, the matter in dispute is amicably settled out of Court by mutual consent, Petitioner No. 1 and I have filed the Divorce Petition bearing HMP No. 563 of 2017 before the Ld. Civil Judge, Senior Division at Malegaon, District-Nashik. Hence, I have no objection to quash and set aside the said FIR.”

5 The Respondent No.1 is also personally present in Court. She is identified by the learned counsel Mr. Sandhyanshiv. She is also identified by her Aadhar Card bearing No. 287171285029. The said Aadhar Card is in her maiden name i.e. Rupali Dadaji Jagtap. When put in the box and queried, she states that she is aware of the Petition for divorce by mutual consent filed in the Court of the learned Judge, Senior Division, Malegaon. She further states that she is not interested in pursuing the FIR, which she has lodged against the Petitioners.

6 The Petitioner No.1-Prashant Panpatil is personally present in Court. He is identified by the learned counsel Mr.

Anilkumar Patil. He is also identified by his Aadhar Card bearing No. 533578198659. When put in the box and queried he accepts the factum of settlement between him and the Respondent No.1, as a consequence of which, the Respondent No. 1 is not interested in pursuing the FIR.

7 Having regard to the factum of the parties filing a petition for divorce by mutual consent, being HMP No. 563 of 2017, the affidavit filed by the Respondent No. 1, the statements made by the Respondent No. 1 and the Petitioner No. 1 when put in the box and queried, the same indicate that the parties have resolved their dispute, as a result of which, the Respondent No. 1 does not desire to proceed with the case in question.

8 Having regard 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, no useful purpose would be served in keeping the above Writ Petition pending, as also keeping

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

the FIR pending. The above Petition is, therefore, required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (b). Rule is accordingly made absolute in the aforesaid terms.

9 In the facts and circumstances of the case, where the jurisdiction of this Court is utilized for settling the dispute between the parties, the Petitioners to deposit costs of Rs.10,000/- in total with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.