

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

CRIMINAL APPLICATION NO.4 OF 2017

Harish Haridas Nair and ors. : Applicants.
Versus
The State of Maharashtra and anr. : Respondents.

**ALONG WITH
CRIMINAL APPLICATION NO.248 OF 2017**

Dharmendra Ramsundar Rai and ors. : Applicants.
Versus
The State of Maharashtra and anr. : Respondents.

Ms. Ameeta Kutti Krishnan for the Applicants in Criminal Application No.4 of 2017 and for the Respondent No.2 in Criminal Application No.248 of 2017.

Mr. Anil S Kamble for the Applicants in Criminal Application No.248 of 2017 and for the Respondent No.2 in the Criminal Application No.4 of 2017.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.**
DATE : 16th FEBRUARY 2018

P.C.

1 The above Criminal Applications have been filed by the parties for quashing of the FIR being CR No.342 of 2014 (filed by the husband) for the offences punishable under Sections 395, 397, 504, 506 and 452 of the Indian Penal Code and the FIR being CR No.574 of 2015 (filed by the wife) for the offences punishable under Sections 498A, 377, 452, 504 and 506 of the Indian Penal Code and Section 66(e) of the Information Technology Act, 2002.

2 The said FIRs have arisen out of the matrimonial disputes between the Applicant No.1 in Criminal Application No.248 of 2017 and the Respondent No.2 in the said Application who are husband and wife. In so far as FIR being CR No.342 of 2014 is concerned, the same has been registered by the husband against the family members of the wife for the offences alleged.

3 Both the first informants i.e. the Applicant No.1 in Criminal Application No.248 of 2017 and the Respondent No.2 in the said Application have filed their affidavits. In so far as the wife Harsha is concerned, her affidavit is dated 21/03/2017 and has been sworn in this Court on the said day. In so far as the affidavit of husband Dharmendra is concerned, the said affidavit has been sworn before the Notary Public Shri Abhin P Gaikar having registration No.5997 of 2008 being Notary Public of Government of India having his office at Mrunal Niwas, Dawadi Road, Golavali, Tal. Kalyan, Dist. Thane. The said affidavit bears notarial registration No.1027 dated 20/02/2017.

4 In so far as the affidavit of husband Dharmendra is concerned, paragraph 3 of the said affidavit is relevant in the context of the relief sought in Criminal Application No.4 of 20017 and is reproduced herein under :-

“3 I further say that in the said consent terms all the matters/cases pending between the petitioner and myself are amicably settled, therefore I do not have any objection if this Hon'ble Court quash the proceeding

initiated by me against the petitioners which is pending on the board/file of Hon'ble Additional Sessions Court at Kalyan vide Session Case No.119/2015.”

5 In so far as the affidavit of wife Harsha is concerned, paragraphs 2 and 6 are relevant and are reproduced herein under :-

“2 I say that on 16.11.2008 I got married to Applicant No.1 as per Hindu Vedic Rites. My family members were not aware of our marriage. After about 2 years, when my family members came to know about our marriage they expressed their unhappiness as Applicant No.1 was not financially stable. The relation of the Applicant No.1 and my family became strained which also brought about discord in our marital relation. Resultantly, various cases came to be filed by the Applicant No.1 on one hand and myself on the other hand, which are as under :-

(i) The Applicant No.1 filed C.R. No.I-342 of 2014 at Manpada Police Station, District Thane for the offence punishable under Sections 395, 397, 504, 506, 452 Indian Penal Code against my brother Harish Nair, my mother Pushpa Nair and my maternal uncles Sagar Agale and Vijay Agale.

(ii) I filed C.R.No.574 of 2015 at Manpada Police Station for the offence punishable under Sections 498A, 504, 506, 377, 34 Indian Penal Code and under Section 66E Information Technology Act against the Applicants.

(iii) I have also filed Marriage Petition No.1023 of 2013 in the Court of the Civil Judge, (Sessions Division), Kalyan under the Hindu Marriage Act, for divorce.

6 I say that in view of the said settlement, I have no objection in the event the FIR at C.R.No.574 of 2015 registered at Manpada Police Station for the offence punishable under Sectionsd 498A, 504, 506, 377, 34 Indian Penal Code and under Section 66E Information Technology Act against the present Applicants is quashed.”

6 The Respondent No.2 – Harsha is personally present in Court. She is identified by the learned counsek Ms. Ameeta Kutti Krishnan. She is also identified by her Aadhar Card bearing No.8456, 7552, 1566. When put in the box and queried she states that the affidavit tendered today which is dated 21/03/2017 is hers and that she has been read over and explained the contents of the said affidavit and that she has understood the said contents. She further states that she has arrived at a settlement with her husband Dharmendra as a result of which she does not desire to proceed with the FIR in question. She lastly states that the she has signed the said affidavit of her own will and volition.

7 The Applicant No.1 Dharmendra is personally present in Court. He is identified by the learned counsel Shri Anil Kamble. He is also identified by the Respondent No.2 Harsha who is his wife. When put in the box and queried he states that he has been read over and explained the contents of the said affidavit and that he has understood the said contents. He further states that he has arrived at a settlement with his wife Harsha as a result of which she does not desire to proceed with the FIR in question.

8 The family members of the Respondent No.2 Harsha against whom the allegations are made in FIR No.342 of 2014 are also personally present in

Court. However, since the statements of the main contesting parties i.e. the husband Dharmendra and the wife Harsha have been recorded, it is not necessary to separately record their statements. However, their presence has been marked as the Applicant No.1 – Harish Haridas Nair, Applicant No.2 – Pushpa Haridas Nair and Applicant No.3 – Sagar Vishwanath Agale – the maternal uncle of the wife Harsha.

9 In view of the affidavits filed by the first informants i.e. the Applicant No.1 – husband Dharmendra and the Respondent No.2 – wife Harsha as also having regard to their statements recorded whilst put in the box and queried, the same unequivocally indicate that the parties have settled the matter. It is also required to be noted that the ABA proceedings which were filed by the husband, the parties have arrived at Consent Terms which were filed on 02/09/2016 in this Court. Clause (2) of the said Consent Terms which is annexed at page 161 of the Criminal Application No.4 of 2017 paper book is material and is reproduced herein under :-

(2) Harsha Rai and Dharmendra Rai have resolved amicably to put an end to the disputes and litigations filed against each other on the following terms:--

(a) They have hereby agreed to withdraw the above referred cases at clause A(i) and B(i) unconditionally. They have agreed to file appropriate proceedings before this Hon'ble Court for quashing of the cases qua F.I.R. referred to at Clauses A(i) and B(i) upon signing the present Consent Terms.

(b) They have agreed not to initiate any other civil

and/or criminal proceedings in the subject matter of the above litigation upon signing the present Consent Terms before any other Court of Law or Authority.

(c) Dharmendra Rai agrees for a divorce by mutual consent to Harsha Rai before the Court of Civil Judge (Senior Division), Kalyan in Marriage Petition No.1023 of 2013.

(d) The parties have agreed that they shall not hereinafter threaten, intimidate, induce, and tease each other in future upon signing the present Consent Terms.

(e) The parties have decided to amicably settle the disputes at their own volition and they have neither been pressurized, forced, threatened nor coerced to withdraw the above cases and proceedings.”

The aforesaid clause also indicates that the parties have arrived at an amicable settlement.

10 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 No.4 of 2017 is accordingly allowed and made absolute in terms of prayer clause (a) and the above Criminal Application No.248 of 2017 is accordingly allowed and made absolute in terms of prayer clause (a). The Applicant No.1 Dharmendra Rai to deposit costs of Rs.5,000/- with the Maharashtra Legal Aid Fund within 6 weeks from

date, receipts to be obtained and filed in the Registry of this Court. The above Criminal Applications are accordingly disposed of.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]