

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.961 OF 2017

Abhijit Sadashiv Ahir.] ... Petitioner

Versus

State of Maharashtra & Ors.] ... Respondents

Mr. N. G. Chhatre for Petitioner.

Mr. F. R. Shaikh, Addl. P. P. for State.

Mrs. Shubhada S. Gokhale for Respondent No.3.

Mr. Sadashiv Jagannath Ahir and Mrs. Nalini Sadashiv Ahir, parents of the Petitioner, present.

Ms. Gunjan Thakkar for parents of the Petitioner.

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

DATE :- 23 APRIL, 2018

P. C. :-

1. The above Petition has been filed for quashing of the FIR being C.R.No.90 of 2014 registered with the Navghar Police Station, Mumbai, for the offences punishable under Sections 498A and 406 read with Section 34 of the IPC. The said FIR has arisen out of the matrimonial dispute between the Petitioner Abhijit and the Respondent No.2 herein Priyanka who were husband and wife at the

relevant time. It is not necessary to dilate further on facts as between the parties i.e. Abhijit and Priyanka, a decree of divorce has been passed in Petition No.A-1218 of 2015, by the Family Court, Mumbai. The said Petition was originally filed for divorce on the ground of cruelty i.e. under Section 13(i)(i-a) of the Hindu Marriage Act but thereafter was converted to a Petition for divorce by mutual consent under Section 13(B) in view of the settlement arrived at between the parties. The learned Counsel tendered the operative part of the order passed in the said Marriage Petition by which the marriage has been dissolved between the Petitioner Abhijit and the Respondent No.3 Priyanka. The said operative part is taken on record. The said order is preceded by the Consent Terms filed between the parties in the said Marriage Petition. The learned Counsel for the Respondent No.3 Mrs. Gokhale tenders a copy of the Consent Terms filed in the Marriage Petition. Clause 4 of the said Consent Terms is material and is reproduced hereinunder :

“4. *The petitioner herein has instituted criminal proceedings under section 498A of the Indian Penal Code against the respondents and his parents which is pending the final disposal before the metropolitan magistrate 27th court Mulund. The respondents and his parents have filed the writ petition being writ petition*

no.961 of 2017 for quashing the said proceedings under section 482 of the CRPC and article 227 of the Constitution of India and they are presently pending in the Honourable High Court. Both the parties agree to remain present before the Hon'ble High court and consent for quashing the proceedings after the decree for divorce is passed in terms of these consent terms.”

2. The Respondent No.3 Priyanka is personally present in Court. She is identified by the learned Counsel Mrs. Gokhale. She is also identified by her PAN Card bearing no.BKCPS1965D which is in her maiden name Priyanka Dhananjay Shirke. When put in the box and queried, she accepts the factum of the Consent Terms being filed in the Marriage Petition and a decree being passed by the Family Court for divorce by mutual consent.

3. The Petitioner Abhijit is not present in Court as he is presently working in Canada. However, his parents are present in Court. The father Mr. Sadashiv Jagannath Ahir is identified by the learned Counsel Ms. Gunjan Thakkar. He is also identified by his PAN Card bearing no.ACOPA1235B. When put in the box and queried, he has accepted the factum of the settlement arrived at between the

parties which includes his son Abhijit and the Respondent No.3 Priyanka. He further states that the settlement is acceptable to his son Abhijit. In view of the statement recorded of the father of the Petitioner, it is not necessary to record the statement of the mother Mrs. Nalini Ahir.

4. Having regard to the Consent Terms being filed in the Family Court as also the decree dated 13/04/2018 passed by the Family Court dissolving the marriage between Abhijit and Priyanka by mutual consent as also having regard to the statement made by the Respondent No.3 Priyanka who is the first informant and the father of the Petitioner Sadashiv Ahir when put in the box and queried, the same unequivocally indicate that the parties have settled their dispute.

5. Having regard to the Judgments of the Apex Court in the cases of Gian Singh Vs. State of Punjab & Anr. reported in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Petition. No useful purpose would be served in keeping the Petition pending. The Petition is required to be allowed and is accordingly allowed in terms of prayer clause (a).

6. In view of the fact that the machinery of this Court is utilized for settling the matter, the Petitioner Abhijit Ahir to deposit costs of Rs.10,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

7. The parents of the Petitioner i.e. Mrs. Sadashiv Ahir and Mrs. Nalini Ahir express their hope and trust that they would not be subjected to any further proceedings. We also expect the same. However, beyond this, we do not express anything more.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)