

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 278 OF 2018**

Aasiem S/o. Sayad Sheikh & Ors.

...Applicants

Vs.

Sumayya D/o. Abdul Razzak Khan & Anr.

..Respondents

Mr.I.A.Khan for the Applicants.

Mr.Faizaan Qureshi for the Respondent No.1.

Mr.A.D.Kamkhedkar APP for the Respondent-State.

**CORAM : R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 13th JUNE, 2018**

P.C.

1 The above Criminal Application have been filed for quashing of the proceedings being C.C.No.1209/PW/2014 arisen out of C.R.No.76 of 2014 registered with the Shivaji Nagar Police Station, Ambarnath for the offences punishable under Sections 498-A, 420, 323, 504, 506, 406 and 34 of the Indian Penal Code. The said FIR is arising out of the matrimonial dispute between the Petitioner No.1 and the Respondent No.1 who are husband and wife. It is not necessary to dilate further on facts. It seems that the parties were before the Family Court in the proceedings filed by the Respondent No.1 herein for Maintenance in Petition No.E-133 of 2015. In the said proceedings, the parties arrived at the settlement, which were reduced into writing by way of "Consent Terms for Settlement of Maintenance". In terms of the said Consent Terms, the Respondent No.1 was to receive Rs.6,00,000/- towards

permanent Maintenance of herself and the child Adeena. The manner in which the said amount is to be paid is also provided by clause (4). Insofar as the present proceeding is concerned, clause (5) of the Consent Terms is material and is therefore reproduced hereinunder for the sake of ready reference.

“The Petitioner undertakes that she will co-operate to quash 498 A matter which is pending at Ulhasnagar Court, after the respondent have deposited the total amount of Rs.6,00,000/- in the Family Court, Mumbai.”

2. The Respondent No.1 has also filed an affidavit bearing today's date i.e. 13th June 2018 and affirmed in this Court in which affidavit she is identified by Advocate Faizaan Qureshi. Paragraphs 5 and 6 of the said Affidavit are material and are reproduced hereinunder

“ I say that I have no objection if proceedings in C.R.No.76/2014, registered with Shivaji Nagar Police Station, Ambarnath, vide C.C.No.1209/PW/2014, pending before Ld.J.M.F.C. (Jr./Sr.Division), Chopra Court, Ulhasnagar, be quashed.

I hereby most humbly submit that the C.C.No.1209/PW.2014, pending before Ld.J.M.F.C. (Jr./Sr. Division, Chopra Court, Ulhasnagar, be quashed.”

3 The Respondent No.1 is personally present in Court. She is identified by the learned counsel Mr.Faizaan Qureshi. She is also identified by her Aadhar Card bearing No.4707 3078 1002. When put in the Witness Box and

queried, she states that the affidavit tendered today by the learned counsel Mr.Qureshi is of her and that she has read the said affidavit and has also understood the contents of the said affidavit. She further states that there is a settlement between the parties. She states that she has signed the said affidavit on her free will and volition. She lastly states that she has received an amount of Rs.6,00,000/- in terms of the Consent Terms.

4. The Applicant No.1- Aasiem Sayad Sheikh is personally present in the Court. He is identified by the learned counsel Mr.I. A. Khan. He is also identified by his Aadhar Card bearing No.8387 6823 7385. When put in the Witness Box and queried, he accepts the factum of settlement between him and the Respondent No.1. The parents of the Applicant No.1 are also personally present in Court. They accept the factum of settlement having been taken place between the Applicant No.1 and the Respondent No.1 as a result of which, the Respondent No.1 does not desire to proceed with the case in question.

5. The “Consent Terms of Settlement of Maintenance”, the affidavit filed by the Respondent No.1 and the statements made by the Respondent No.1 and the Applicant No.1 when put in the Witness Box and queried, lead to an irresistible conclusion that the parties have settled their dispute as a result of which, the Respondent No.1 does not desire to proceed with the case in

question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (c). As a result, the proceeding being C.C.No.1209/PW/2014 pending on the file of the learned J.M.F.C., Ulhasnagar would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

6 The Applicant No.1 to deposit costs of Rs.10,000/- 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]

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065