

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

CRIMINAL APPLICATION NO.294 OF 2017

Deepraj Surendra Vernekar : Applicant.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. Ujjwal Gandhi I/by Mr. Rishi Bhuta for the Applicant.
Mrs. P P Shinde, APP for the Respondent/State.
Mrs. Sushma R Vernekar – Respondent No.3 present.
Mr. Mahesh Nivatkar – Investigating Officer, present.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 28th JUNE 2018

P.C.

1 The above Criminal Application has been filed for quashing of the FIR being C. R. No.162 of 2011 registered with the Malad Police Station for the offences punishable under Sections 498(A), 406, 34, 506(2) of the Indian Penal Code.

2 The Applicant herein is the brother of the erstwhile husband of the first informant i.e. the Respondent No.3 herein. In so far as the husband and the family members are concerned, they have been acquitted by the Trial Court by the judgment and order dated 26/06/2014 because of the settlement which was arrived at between the parties.

3 In so far as the Applicant is concerned, since he was out of India at

the relevant time, the investigation in so far as the Applicant is concerned could not be carried out and therefore the Applicant is the sole accused against whom the proceedings are now pending.

4 In so far as the Respondent No.3 and her husband Raviraj Surendra Vernekar are concerned, they were involved in Marriage Petition No.A-2750 of 2011 wherein Consent Terms were filed. In terms of the said Consent Terms the parties agreed to dissolve their marriage by mutual consent. The said Consent Terms also contained the other terms and conditions, however, in the context of the present Criminal Application, it is required to be noted that the parties have agreed to co-operate with each other in quashing of the proceedings. It is not necessary to dilate further on facts.

5 The Respondent No.3 herein i.e. the first informant had appeared before us on 26/06/2018. In the order passed on the said day, her presence was recorded and she was also identified by her Aadhar Card bearing No.866693992267. We had directed the learned counsel for the Applicant to keep her erstwhile husband Raviraj Surendra Vernekar present in Court today. But we are informed that he is travelling and cannot remain present in Court. However, the Investigating Officer – Police Inspector Shri Mahesh Nivatkar is personally present in Court and he confirms that the person present in court is the Respondent No.3 who is the first informant.

6 The Respondent No.3 has filed an affidavit dated 27/06/2018 and affirmed before R.R.Sharma, Notary, Govt. of India having his office at Flat No.2, C Wing, Shree Sai Complex CHS, Opp. S. T. Bus Depot, Malad, Mumbai – 400 025. In the context of the present Criminal Application, paragraphs 5 and 6 of the said affidavit are material and are reproduced herein under :-

“5 I say that I have no objection if the FIR lodged by me against the present applicant Deepraj Surendra Verenkar is quashed by the Hon'ble Court.

6 I say that I am making this “AFFIDAVIT” out of my own free will without any force or coercion”

7 Having regard to the factum of acquittal of the erstwhile husband of the Respondent No.3 and other family members which is founded on the Consent Terms filed between the parties, the divorce obtained by the parties by mutual consent, the affidavit dated 27/06/2018 filed by the Respondent No.3 by which she has given no objection for quashing of the FIR, no useful purpose would be served in keeping the proceedings pending.

8 A useful reference could be made 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, which would assist the Applicant in quashing

and setting aside of the proceedings in question.

9 The above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (d). The above Criminal Application is accordingly disposed of. In the facts and circumstances of the present case, the Applicant 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 of this Court.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]