

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1197 OF 2018

Mr. Pratyush Guglani & Ors.] ... Petitioners

Versus

State of Maharashtra & Anr.] ... Respondents

Mr. Samsheer Garud a/w Mr. Joy Pereira i/b Jayakar & Partners for
Petitioners.

Mr. R. M. Pethe, APP for State – Respondent No.1.

Mr. Zaid Ansari a/w Mr. Mangesh Kokare & Mr. Deep Morabia i/b
Mr. Zaid Ansari for Respondent No.2.

Mr. Sambhaji B. Bansode, API attached to Deonar Police Station,
present.

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

DATE :- 15 MARCH, 2018

P. C. :-

1. The above Petition has been filed for quashing of the proceedings being CC No.244/PW/2016 pending in the Court of learned Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai. The said case is arising out of the registration of the FIR being C.R.No.258 of 2015 registered on 06/06/2016 with the Khar Police Station, for the offences punishable under Sections 498A and

406 read with Section 34 of the IPC. The said F.I.R. has arisen out of the matrimonial dispute between the first informant i.e. the Respondent No.2 herein and the Petitioner No.1 Mr. Pratyush Guglani. The parties were involved in other cognate proceedings under the Domestic Violence act and the Hindu Marriage Act wherein an *ex-parte* Decree has been passed in favour of the Petitioner No.1. The parties have arrived at an overall settlement which is evidenced by the Consent Terms which have been executed by the parties bearing today's date i.e. 15/03/2018. The said Consent Terms are signed by the Petitioners and the Respondent No.2 as well as by the partner of the firm representing the Petitioners, Mr. Samsheer Garud, the learned Counsel for the Petitioners and Mr. Zaid Ansari, the learned Counsel for the Respondent No.2. In the context of the reliefs sought in the present Petition, Clause 2.15 of the Consent Terms is material and is reproduced hereinunder.

“2.15 The Respondent No.2 hereby unequivocally agrees, confirms and declares that subject to payment of the aforesaid permanent alimony to her by the Petitioners, the execution by her of these presents and the filing thereof before this Hon'ble Court constitutes a no-objection on her part to the quashing of the FIR that has been registered by Khar Police Station against the Petitioners and that on the strength hereof, if this Hon'ble Court deems it appropriate and sufficient that

the said FIR/Chargesheet can be quashed, then the Respondent No.2 hereby unequivocally submits to the discretion of this Hon'ble Court in this regard.”

The Consent Terms which are paginated from 1 to 13 are taken on record and marked '**X**' for identification.

2. The Respondent No.2 has also filed an Affidavit dated 14/03/2018 affirmed in this Court. Paragraph 2 of the said Affidavit is material and is reproduced hereinunder.

“2. I say that pursuant to the mediation and advice of well wishers and elders I say that I have no objection if the Petition is allowed and CC No.244/PW/2016 under sections 406, 498A, 504 and 34 of Indian Penal Code, 1860 arising from FIR No.258 of 2015 is quashed. I say that we have settled the disputes in terms of consent terms being tendered herewith.”

Hence, the Consent Terms bearing today's date i.e. 15/03/2018 and the Affidavit filed by the Respondent No.2 who is the first informant, indicate that the parties have amicably resolved their dispute. The Respondent No.2 Mrs. Shivika Mehra Guglani (now Shivika Vijay Mehra) is personally present in Court. She is identified by learned Counsel Mr. Zaid Ansari. She is also identified by her Aadhar Card

bearing No.8090 4371 0790. When put in the box and queried, she states that she has read the Consent Terms bearing today's date and that the contents are acceptable to her. She further states that she has signed the said Consent Terms of her own free will and volition. She further states that the Affidavit tendered today dated 14/03/2018 is hers and that the contents are acceptable to her and that she has signed the said Affidavit of her own free will and volition.

3. The Petitioner No.1 Pratyush Guglani is also personally present in Court. He is identified by the learned Counsel Mr. Samsher Garud. He is further identified by his Aadhar Card bearing no.4541 0490 5497. When put in the box and queried, he states that the Consent Terms are acceptable to him and that he has signed the Consent Terms of his own free will and volition. The Petitioner No.2 Mr. Rajiv Guglani who is the father of the Petitioner No.1, is also personally present in Court. He is identified by learned Counsel Mr. Samsher Garud. He is further identified by his Aadhar Card bearing No.9756 7326 8875. When put in the box and queried, he states likewise.

4. In view of the fact that the statement of the father of the Petitioner has been recorded, it is not necessary to record the statements of the brother of the Petitioner No.1. However, photocopies of their Aadhar Cards are annexed to the Consent Terms in evidence of they having signed the Consent Terms. Hence, the statements of the Respondent No.2, the Petitioner No.1 and the Petitioner no.2 when put in the box and queried, also unequivocally point out that the parties have settled their dispute amicably as a result of which the Respondent No.2 does not desire to proceed with the case in question.

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 Writ Petition is allowed and made absolute in terms of prayer clause (b).

6. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the matter, the Petitioners to deposit costs of Rs.25,000/- with the National Association of Blind, Worli, within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)