

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1191 OF 2017

Vijaykumar Tarachand Agrawal
and Ors.

....Petitioners

V/s.

The State of Maharashtra
and anr.

....Respondents

* * * * *

Mr. Amey Deshpande a/w. Mr. G.C.P. Jhaveri, Advocate
for the petitioners.

Mr. K.V. Saste, Addl. P.P. For the State, respondent no.1.

Ms. Prabha U. Badadare, Advocate for respondent no.2.

CRIMINAL WRIT PETITION NO. 2463 OF 2013

Sweety @ Guddi Vikas Agarwal
V/s.

....Petitioner

The State of Maharashtra
and anr.

....Respondents

* * * * *

Mr. P.L. Shetty, Advocate for the petitioner.

Ms. Prabha U. Badadare, Advocate for respondent no.1.

Mr. K.V. Saste, Addl. P.P. for the State, respondent no.2.

CORAM :- R.M.SAVANT, &
SANDEEP K. SHINDE, JJ.

DATE :- 11TH JANUARY, 2018.

P.C. :-

1. Leave to amend Writ Petition No. 1191 of 2017 is granted so as to array, Sumit Vijaykumar Agrawal as a petitioner to the above writ petition. Amendment to be carried out forthwith.

2. The Learned Counsel for the petitioner undertakes to file vakalatnama on behalf of Sumit Vijaykumar Agrawal, within a period of one week from today. Statement is accepted.

3. The above petitions have been filed seeking quashing of the proceedings being C.C. No.118 of 2013 pending before the Learned Judicial Magistrate First Class, Bhiwandi arising from FIR being C.R. No.I-69 of 2013 registered with the Nijampura Police Station,

Bhiwandi on 10th April, 2013 for the offences punishable under Section 406 read with Section 34 of the Indian Penal Code. Respondent no.2 to the above writ petition is the First Informant and is the daughter-in-law of the petitioner no.1 in the above Writ Petition No. 1191 of 2017. The other family members of the husband of respondent no.2 are the petitioners in the above two petitions alongwith the father of the husband of the respondent no.1 i.e. Vijaykumar T. Agrawal. The FIR has been lodged on account of the matrimonial disputes between the parties. Respondent no.2 has filed an Affidavit dated 11th January, 2018 in both the petitions which is identical in nature. In the context of the relief sought in the above petitions, para-3 of the Affidavit in Writ Petition No. 1191 of 2017 which is identical to para-4 in the Affidavit filed in Writ Petition No. 3463 of 2013 is reproduced hereinunder :-

“3. I say that, during the course of the Trial with the intervention of well wisher and

relatives we have amicably settled the dispute between myself and in laws and my husband Sumit Agrawal and have decided to part ways amicably by filing divorce by mutual consent. I say that, in view of settlement, I do not wish to proceed with the Criminal Case No. 1287/13. Ld. Judicial Magistrate First Class, Bhiwandi and hence I do not have any objection to grant relief sought by present Petitioners in Writ Petition No. 1191 of 2017.”

4. A reading of the said para, therefore discloses that the parties have amicably resolved their disputes with the intervention of the relatives, as well as, the well-wishers and in view thereof, respondent no.2 i.e. the First Informant has no objection to the reliefs being granted i.e. the quashing of the criminal proceedings.

5. Respondent no.2 is personally present in Court. She is identified by the Learned Counsel Ms. Badadare, appearing for her. Ms. Badadare, states that, photocopy of her Aadhar Card would be furnished during the course of the day. Statement accepted. When put in the box and queried, she states that, she has understood the contents of the Affidavit and that she reiterates the statements made in the Affidavits. She further states

that, she is consenting to the quashing of the criminal proceedings in view of the settlement arrived at between the parties. She further states that, she has filed the Affidavit on her own free will and volition. Petitioner no.1 i.e. the father-in-law of the respondent no.2 is personally present in Court. He is identified by the Learned Counsel Mr. Deshpande. He is also identified by Aadhar Card bearing No. 2616 0627 1990. When put in the box and queried, he states that, a settlement has been arrived at between the parties pursuant to which respondent no.2 has consented to the quashing of the criminal proceedings. The newly added respondent i.e. the husband of the First respondent i.e. Sumit Agrawal has not been able to remain present in Court in view of the indisposition of his mother i.e. petitioner no.2 in Writ Petition No. 1191 of 2017.

6. In view of the affidavits filed by respondent no.2 in the above petitions, as well as, the statements made by her, as well as, the statements made by

petitioner no.1 as regards the settlement and considering the facts of the case and in view of the judgments of the Apex Court in the case of **Narinder Singh v. State of Punjab, reported in (2014) 6 SCC 466**, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab reported in (2012) 10 SCC 303** would also lead to the same conclusion. That even otherwise, no useful purpose would be served by keeping the proceedings pending. The petitions are therefore allowed and are accordingly allowed in terms of prayer clause (A) in Writ Petition No. 119 of 2017 and in terms of prayer clause-7(B) in Writ Petition No. 2463 of 2013.

7. In the facts and circumstances of the case, the petitioners to deposit cost of Rs.25,000/- to be paid over to the National Association of Blind, Worli, Mumbai within a period of 6 weeks from today. Receipt to be produced and filed in the Registry.

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* 7/7 * WP-1191-2017 (SR. 901)
Thursday, 11.1.2018

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)