

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

CRIMINAL WRIT PETITION NO.1366 OF 2018

Sagar Shivaji Patil & Ors.

.. Petitioners

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Mr.Ravindra R. Chile, Advocate for the Petitioners.

Mrs.P.P. Shidne, APP for Respondent -State.

Mr.Vijay Kokikar, Advocate for Respondent No.2.

PSI Kamthe, N.M. Joshi Marg Police Station, present.

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**CORAM : R.M. SAVANT AND
PRAKASH D. NAIK, JJ.**

DATED : JUNE 26, 2018.

P.C. :

Leave to amend is granted so as to incorporate the number of the charge sheet in the prayer. Amendment to be carried out forthwith.

2 The above writ petition has been filed for quashing of the proceedings pending on the file of the learned Metropolitan Magistrate 13th Court, Dadar, Mumbai arising out of C.R.No.197 of 2016, registered with N.M. Joshi Marg Police Station, Dadar, Mumbai, for the offences punishable under Section 498-A of the Indian Penal Code. It seems that the parties were before the Family Court in Petition No.F-2017 filed by the petitioner no.1

herein, which was a petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955. In the said petition, the parties have arrived at a settlement which was reduced into writing by way of Consent Terms. In the context of the relief sought in the above writ petition, clause 4 of the Consent Terms is material and is reproduced hereunder:

“4 The Petitioner No.2 undertakes that she shall withdraw the Court Case No.146/DV/2016 pending before the Court of Ld. Metropolitan Magistrate's 13th Court at Dadar Mumbai against the Petitioner No.1 and his family members and shall do all the needful to get compounded or quashed as the case may be the complaint registered at N.M.Joshi Marg Police Station vide C.R.No.197/2016 under Section 498A of Indian Penal Code against the Petitioner No.1 and his family members from the Hon'ble Magistrate Court at Dadar or from the Hon'ble Bombay High Court.”

3 The respondent no.2 i.e. the first informant has also filed an affidavit dated 20th April, 2018 and affirmed in the Court on the same day. The respondent no.2 has been identified on the basis of her Pan Card bearing No.661201310740. Paragraph No.6 of the said affidavit is material in the context of the present petition and, is, therefore, reproduced hereunder:

“6 I say that I have no objection to quashing of FIR No.197/2016 dated 16.09.2016 under section 498A of Indian Penal Code, registered at N.M. Joshi Marg Police Station and charge sheet filed before the 13th Metropolitan Magistrate, Dadar, Mumbai against the petitioners for offences under section 498-A of Indian Penal Code. I say that in this regard I have filed consent terms in petition for divorce by mutual consent filed under Section 13-B of the Hindu Marriage Act, 1955, before the Family Court at Bandra, Mumbai contending to resolve the disputes, problems and the cases filed against the petitioners.”

4 The respondent No.2 Megha Sagar Patil is personally present in the Court. She is identified by her Aadhar Card bearing No.661201310740. When put in the box and queried, she states that she has read and understood the contents of the said affidavit dated 20th April, 2018, which she is filed in the above petition. She further states that she has filed the said affidavit in view of the settlement between the parties. She lastly states that she has filed the affidavit of her own free will and volition. Petitioner no.1 Sagar Patil is also personally present in the Court. He is identified by the learned counsel Mr.Chile as also by his Aadhar Card bearing No.459286186169. When put in the box and queried, he accepts the factum of settlement between him

and the respondent no.2, as a consequence of which the respondent no.2 does not desire to proceed with the case in question. Having regard to the Consent Terms filed in the Family Court, the affidavits filed by respondent no.2, the statements made by respondent no.2 and the petitioner no.1, when put in the box and queried, the same indicate that the parties have amicably resolved their dispute as a result of which the respondent no.2 does not desire to proceed with the case in question. Having regard to the Judgment of the Apex Court in the case of ***Gian Singh Vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Os. Vs. State of Punjab & Anr.***², as also having regard to the fact that the case involves a personal dispute between the parties, no useful purpose will be served in keeping the proceedings pending. The above Criminal Writ Petition is, therefore, required to be allowed and is accordingly allowed in terms of prayer Clause (b)

5 In the facts and circumstances of the case, the petitioners to deposit costs of Rs.5,000/- with the State Legal Aid Fund within six weeks from today. Receipt to be obtained and filed in the Registry.

(PRAKASH D. NAIK, J.)

(R.M. SAVANT, J.)

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065