

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.394 OF 2018

Kaisar Bakhtiyar Khan & Ors. Applicants

Vs.

The State of Maharashtra Respondents

Mr. Ram Mani Upadhyay for the Applicants.

Mr. D.T. Tiwari for Respondent no.2

Mrs. S.V. Sonawane, APP for the State.

Coram : R.M. Savant AND
Sarang V. Kotwal, JJ

Date : 17th April, 2018

P.C.

1 The above Criminal Application has been filed for quashing of the F.I.R. bearing No. 31 of 2018 registered with the R.C.F. Police Station, Mumbai, for the offences punishable under Sections 326, 504, 506 read with 34 of the Indian Penal Code. The said F.I.R. has arisen out of the marital discord between the Applicant No.1 and the Respondent no.2, who are husband and wife.

2 It is not necessary to dilate further on facts as the respondent no.2 has filed a consent affidavit, which is affirmed yesterday i.e. 16th April, 2018 before the Notary, Shri. V.P. Pandey, having his registration No.7779. The said affidavit bears Notarial registration No. 499 of 2018 dated 16th April, 2018. In the context of the relief sought in the above application, paragraphs 11, 12 and 13 of the said affidavit are material and are reproduced hereinunder :

“11. I say that as I have settled the dispute and issues with applicants, I do not want to proceed and accordingly I am giving my irrevocable consent for quashing of FIR No. 31 of 2018 registered with RCF Police Station, Mumbai under Sections 326, 504 and 34 of the Indian Penal Code.

12 I say that I have no objection if prayers of the present criminal application are allowed and FIR in question is quashed.

13 I say that there is no force, pressure or coercion on me for giving consent for quashing of FIR and I have appeared as per my own will, wish, volition and accord.”

3 The respondent no.2 Shahjaha Kaisar Khan is personally present in Court. She is identified by the learned

counsel, Mr. D.T. Tiwari. She is also identified by her Adhar Card bearing No. 3792 9160 2514. When put in the box and queried, she states that she has been readover and explained the contents of the said affidavit dated 16th April, 2018. She further states that she has understood the contents of the said affidavit and that she has signed the said affidavit of her own free will and volition. She lastly states that she does not desire to proceed with the case in question.

4 The Applicant no.1 – Kaisar Bakhtiyar Khan is also personally present in Court. He is identified by the learned counsel, Mr. Upadhyay. He is also identified by his Adhar Card bearing No. 8460 7253 7024. When put in the box and queried, he states that the settlement has been arrived at between him and the respondent no.2 and that at present they are residing together. In view of the statement recorded of the Applicant no.1, it is not necessary to record the statement of the Applicant no.2, who is the sister of the respondent no.2. Having regard to

the affidavit filed by the Respondent no.2 and the statements made by the Applicant no.1 and the Respondent no.2, 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.

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, no useful purpose would be served in continuing with the F.I.R. The above application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a).

6 The Applicant No.1 to deposit costs of Rs.5,000/- with the Kirtikar Law Library. Receipt to be obtained and filed in the Registry.

(Sarang V. Kotwal, J.)

(R.M. Savant, J.)