

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.399 OF 2017

Mr. Nilesh @ Nilesh Kumar Siddhapura
& Ors.Applicants
V/s.
Mrs. Kajal Nilesh Siddhapura & Anr.Respondents

Mr. B.B.Pathak, Advocate for Applicants.
Mrs. A.S.Pai, APP for the Respondent-State.
Mrs. Kanchan S. Chandak with Mr. S.D.Chandak, Advocates for
Respondent No.1.
Applicant No.1 and Respondent No.1 present.

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

DATE :- 23RD JANUARY, 2018.

PC. :-

The above Criminal Application has filed for quashing the FIR being No.489 of 2016 registered with Samata Nagar Police Station, Kandivali (East), Mumbai on 18.11.2016 for the offences punishable under Sections 498A, 406 and 34 of IPC. The Applicant No.1- Nilesh @ Nilesh Kumar Siddhapura and the Respondent No.1- Kajal are husband and wife and they were married on 6.12.2015 in Mumbai. The FIR is the consequence of the matrimonial disputes between the Applicant No.1 and the Respondent No.1. It seems that the parties had agreed to file a Petition for divorce by mutual

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consent which they accordingly did by filing Petition No.F-768 of 2017. In the said Petition, the parties arrived at Consent Terms which are annexed to the above Application at Page 59. The said Marriage Petition came to be disposed of in terms of the said Consent Terms by order dated 25.9.2017. In the context of the present Petition, Clause 2 of the Consent Terms is material and is re-produced hereunder:

“2 The petitioners state that the petitioners have mutually agreed that the petitioner no.2 shall file the quashing petition before the Hon'ble Bombay High Court for quashing of CR No.489/ 2016 registered by Samata Nagar Police Station, Kandivali, Mumbai after filing of the mutual consent divorce petition and the Petitioner No.1 shall give her necessary consent/no objection for the quashing of the said case.”

2 Respondent No.1, i.e., the First Informant Kajal has also filed affidavit dated 3.4.2017 which has been affirmed before this Court as can be seen from the the certified copy of the said affidavit produced by the learned counsel appearing for the Respondent No.1. Paragraphs 7 and 8 of the said affidavit are material and are re-produced hereinunder:

“7 I state that I am withdrawing my complaint which is made at Samta Nagar Police Station and also withdrawing all my past, future claim against the petitioners. I state that I have no objection for quashing FIR No.489/2016 lodged at Samta Nagar Police Station. I state that there is no force, coercion, undue influence upon me to file the present affidavit. I say that I am filing the present affidavit on my own free will and wish.

8 I state that I am making this affidavit to enable the Hon'ble Court to quashing the FIR bearing No.489/2016 registered at Samta Nagar Police Station on 18/10/2016.”

3 Hence, the Consent Terms filed in the Family Court as well as the affidavit of the Respondent No.1 affirmed on 3.4.2017 disclose that the parties have amicably settled their disputes and thereby have arrived at overall settlement. It is as consequence of the same that the First Informant, i.e., the Respondent No.1 has consented to the quashing of the FIR. The Respondent No.1 is personally present in Court. She is identified by the learned counsel Ms. Kanchan S. Chandak. She is also identified by her Adhar Card bearing No.3211 2105 7741. When put in the box and queried, the Respondent No.1 states that the parties have arrived at Consent

Terms in the Family Court, Mumbai and that she has understood the contents of her affidavit dated 3.4.2017 and that she has filed the said affidavit of her own free will and volition. The Applicant No.1- Nilesh @ Nilesh Kumar Siddhapura, i.e. the husband is also personally present in the Court. He is identified by the learned counsel Mr. Bharat B. Pathak. He is also identified by his PAN Card bearing No.CSEPS2366H. When put in the box and queried, he accepts the factum of the Consent Terms being arrived at between the parties in the Family Court, Mumbai. He further accepts the fact that pursuant to the Consent Terms, affidavit has been filed by the Respondent No.1.

4 In the light of the Consent Terms arrived at between the Parties in the Family Court, Mumbai and the affidavit filed by the Respondent No.1 as also the statements made by the Respondent No.1 and the Applicant No.1 when put in the box, no useful purpose would be served in continuing the investigation pursuant to the FIR. Having regard to 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. Application is allowed and made absolute in terms of prayer clause (a).

5 The Applicant No.1 and the Respondent No.1 to deposit costs of Rs.10,000/- each with the Tata Memorial Centre (Tata Memorial Hospital, Parel) within six weeks from date. Receipts to be obtained and filed in the Registry.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)