

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.401 OF 2017

Gautam Saraf & Ors. Applicants

Vs.

The State of Maharashtra & Anr. Respondents

Mr. Ketan Gupta i/by Legaleye Associates for the Applicants
Mr. Vijay Hiremath for Respondent no.2
Mr. K.V. Saste, Additional P.P. for the State.

Coram : R.M. Savant AND
Sarang V. Kotwal, JJ
Date : 25th April, 2018

P.C.

1 The above Criminal Application has been filed for quashing of the F.I.R. being C.R. No.334 of 2016 for the offences punishable under Sections 498-A, 406, 354, 377, 323, 504 and 506 read with 34 of the Indian Penal Code. The said F.I.R. was registered with Navghar Police Station, Bhayander (East), Thane. The said F.I.R. has arisen out of the matrimonial dispute between the Petitioner no.1 and the Respondent no.2, who are husband and wife.

2 It is not necessary to dilate further on facts. It seems that the parties were before the learned Additional Principal Judge, Family Court, Bengaluru in Criminal Miscellaneous Application No.564 of 2017. In the said application, the parties were referred to mediation under Section 89 of the Code of Civil Procedure and Rules 24 and 25 of the Karnataka Civil Procedure (Mediation) Rules, 2005. It is, during the course of the said mediation that the parties have arrived at a settlement which was reduced into writing by way of a Memorandum of Agreement, which comprises the terms of the settlement. The said Memorandum of Agreement is dated 27th October, 2017 and signed by the parties i.e. the Petitioner no.1 herein Gautam Saraf and the Respondent no.2, Priyanka Mittal. In the context of the present application, paragraph 7 of the said terms of the settlement is material and is reproduced hereinunder :

“7. The Petitioner herein viz. Priyanka Mittal @ Priyanka Gautam Saraf unconditionally consents to and agrees that the Criminal Application/Petition in Criminal Application No. 401/2017 before the Hon'ble High Court of Judicature at Bombay filed by the

Respondent herein viz. Gautam Saraf seeking quashing of F.I.R. in Crime No.334/2016, registered before the Navghar Police Station, Bhayander East, Thane be allowed and no further action in pursuance of the said FIR No. 334/2016 be continued. The said Priyanka Mittal @ Priyanka Gautam Saraf agrees to unconditionally withdraw all allegations made in F.I.R. No. 334/2016 and co-operate in obtaining closure of the said FIR and file/sign all requisite papers therefor and wherever necessary personally appear before the aforesaid Police Station or Court and take steps to withdraw the said FIR.”

3 The Respondent no.2 has therefore agreed to unconditionally withdraw all the allegations made in the instant F.I.R. being C.R. No.334 of 2016 and co-operate in obtaining closure of the said F.I.R.. The Respondent no.2 has also filed an affidavit in the above application bearing today's date and affirmed in this Court today. In the said affidavit in paragraph 3, the Respondent no.2 has referred to the Memorandum of Agreement entered into between the parties in the Court of learned Additional Family Court Judge, Bengaluru. However, paragraph 4 of the said affidavit in the context of the present application is material and is reproduced hereinunder :

“4 I am agreeing to the Proceedings being quashed in the FIR No.334/2016 on the assurance that they will give consent to the withdrawal of FIR in the Crime No.199/2016 of Subramanyanagar Police Station which is now C.C. No.9660/2017 pending before 1st Additional Metropolitan Magistrate, Bangalore filed by the present Petitioner no.1 against me and my family members”.

Hence, the Memorandum of Agreement dated 27th October, 2017, the terms of the settlement contained therein, the affidavit of the Respondent no.2 bearing today's date i.e. 25th April, 2018 indicate that the parties have settled their dispute, as result of which, the Respondent no.2 is consenting to the quashing of the F.I.R. in question.

4 The Respondent no.2, Priyanka Mittal is personally present in Court. She is identified by the learned counsel, Mr. Vijay Hiremath. She is also identified by her PAN Card bearing No. ASLPM 9771H. When put in the box and queried, she accepts the factum of the Memorandum of Agreement dated 27th October, 2017 being filed in the Family Court, Bengaluru. She

further states that she has been readover the contents of her affidavit, which is tendered by her learned advocate today in Court. She further states that she has understood the contents of the said affidavit and that she has signed the same of her own free will and volition. She lastly states that in view of the settlement, she does not desire to proceed with the F.I.R. in question.

5 Having regard to the aforesaid facts as also having regard to the judgments of the Apex Court in the matter of Gian Singh V/s 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 keeping the proceedings pending. The application would accordingly be required to be allowed and is accordingly allowed in terms of prayer clause (a).

6 The Applicants to deposit costs of Rs.20,000/-
(Rupees Twenty Thousand only) with the State Legal Aid Fund
within eight weeks from date. Receipt to be obtained and filed
in the Registry.

(Sarang V. Kotwal, J.)

(R.M. Savant, J.)