

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 404 OF 2018**

Suresh Chunilal Kapadia ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. V. G. Bagade for the Applicant

Mrs. P. P. Shinde, A.P.P for the Respondent No.1-State

Mrs. N. S. Kature for the Respondent No. 2

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
FRIDAY, 10th AUGUST 2018***

P.C. :

1 The above Application has been filed for quashing of the FIR being No. 42 of 2018 registered with the Andheri Police Station, Mumbai on 25th January 2018, for the offence punishable under Section 354 of the Indian Penal Code. The said FIR is a consequence of the incident, which allegedly took place on 24th January 2018 involving the Applicant herein. It is not necessary to dilate further on facts. The parties have arrived at a settlement, which is reduced into writing by way of Consent Terms dated 26th March 2018 executed by the Applicant and the Respondent No. 2

before Mrs. Aliya N. Pathan, Notary, Government of India and bears the notarial registration No. 29377 dated 26th March 2018. The original of the said Consent Terms has been tendered across the bar. However, the photocopy of the said Consent Terms is annexed at Exhibit `B' to the Application and has been paginated from 11 to 13. In the context of the present Application, Clause (B) and Clause (E) of the said Consent Terms are material and are reproduced hereinunder :

“(B) That party of the Second part has registered a FIR No. 42/2018 u/s 354 of IPC with Andheri Police Station, Mumbai on 25/01/2018 against the party of the First Part.”

“(E) That party of the second part has agreed to make necessary statement, affidavit, to give evidence before the court for withdrawal of her FIR/case referred above as misunderstanding clarified and dispute have been settled amicably and agreed to cooperate before the court. The party of the second part has also agreed to make necessary affidavit, statement before the Honorable High Court Mumbai in case of likely Petition for quashing of FIR filed by the party of the second Part. That both parties agreed to remain present in person with necessary affidavit about consent for compromise and withdrawal and quashment of the FIR upon party of the first part making necessary application, petition before the Honorable Court.”

2 The Respondent No. 2-Priyanka Roy is personally present in Court. She is identified by the learned counsel Ms. Kasture. She is also

identified by her Aadhar Card bearing No. 910220016274. When put in the box and queried, she states that she has read and understood the contents of the Consent Terms. She further states that in view of the Consent Terms, which reflect the settlement arrived at between the parties, she is not desirous of proceeding with the case in question.

3 The Applicant -Suresh Kapadia is personally present in Court. He is identified by the learned counsel Mr. Bagade. He is also identified by his Aadhar Card No. 755890405656. When put in the box and queried, he accepts the factum of there being a settlement between the parties. As a result of which, the Respondent No. 2 is not desirous of proceeding with the case in question.

4 Having regard to the Consent Terms dated 26th March 2018, the statements made by the Respondent No. 2 and the Applicant, 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 is not desirous of proceeding with the case in question.

5 Having regard to the judgments of the Apex Court in the matter of *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², the above Application will have to be allowed and is accordingly allowed in terms of prayer clause (a).

6 In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute, the Applicant to deposit costs of Rs.25,000/- with the Tata Memorial Hospital, Parel, Mumbai, within six weeks from date. Receipt to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.

1 (2012) 10 SCC 303
2 2014 AIR SCW 2065