

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

CRIMINAL WRIT PETITION NO.1580 OF 2018

Deepak Haribhai Desai & Ors.

.... Petitioners

versus

State of Maharashtra & Anr.

... Respondents

.....

- Mr.Satyaprakash Sharma, a/w Mr.Shrikant Ingle, a/w Ms.Swati Chaurasia, Advocate for the Petitioners.
- Mrs.M.M. Deshmukh, APP for the State/Respondent.
- Mr.Nikhil Mengde, Advocate for Respondent No.2.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 19th APRIL, 2018.**

P.C. :

1. The above Writ Petition has been filed for quashing and setting aside the FIR being C.R.No.450/16 registered with Malad Police Station, Mumbai, on 12/09/2016 for the offences punishable u/s 498-A, 406, 354, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. The said FIR has arisen out of the matrimonial dispute

between the Petitioner No.1 and the Respondent No.2, who are husband and wife. It seems that the parties were also before the Family Court at Bandra in Marriage Petition No.A-783/17, which was filed by the Respondent No.2, which was filed originally for divorce on the ground of cruelty u/s 13(1)(ia) of Hindu Marriage Act. However, during the course of the pendency of the said Petition, the parties reached a settlement, as a consequence of which, the parties agreed to convert the said Petition into a Petition for Divorce by mutual consent u/s 13(B) of the Hindu Marriage Act. The parties thereafter have filed Consent Terms dated 16/03/2018 in the said Marriage Petition, evidencing the settlement arrived at between the parties. In the context of the present Petition, clause (5) of the said Consent Terms is material and is reproduced hereinunder;

“It is agreed between both the parties that Applicant shall withdraw all the allegation/complaints made against the Respondent and his family members after filing consent term at Hon'ble Family Court the Respondent shall file for quashing at Hon'ble High Court within 10 days from

today and the Applicant shall Cooperate Respondent in quashing FIR bearing No.450 of 2016 Filed against the Respondents u/s 498(A), 406, 354, 323, 504 and 506 of the IPC with Section 34 of Cr.P.C. before Hon'ble High Court.

3. The Respondent No.2 Darshana Deepak Desai is personally present in Court. She is identified by the learned Counsel Mr.Nikhil Mengde. She is also identified by her Aadhar Card bearing No.8341 3473 3758. When put in the box and queried, she states that she has read the affidavit, which is tendered today by her Advocate. She further states that she has understood the contents of the said affidavit and she has signed the said affidavit out of her own free will and volition. She further stated that in view of the settlement arrived at between the parties, she does not desire to proceed with the FIR in question.

4. The Petitioner No.1 Deepak Haribhai Desai is also personally present in Court. He is identified by the learned

Counsel Mr.Satyaprakash Sharma. He is also identified by his Aadhar Card bearing No.4298 6262 9916. The address in his Aadhar card is of Nagarvada Road, Patan, Gujarat 684 265. When put in the box and queried, he accepts the factum of the settlement between him and the Respondent No.2.

5. Having regard to the Consent Terms filed in the Marriage Petition, between the parties, as also the Consent Terms filed in the Domestic Violence Proceeding, the affidavit filed by the Respondent No.2 and statement made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried, same unequivocally indicate that the parties have settled their dispute, as a result of which the Respondent No.2 does not desire to proceed with the FIR in question.

6. It is not necessary to record the statements of the other Petitioners as they are the parents and brother of the Petitioner No.1.

7. 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. V/s. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the proceedings pending.

8. The above Writ Petition is accordingly allowed in terms of prayer clause (a). The FIR being No.450/16 dated 12/09/2016 registered with the Malad Police Station, would accordingly stand quashed and set aside. The Petitioner to deposit costs of Rs.5,000/- with the Kirtikar Law Library, High Court, Bombay, within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)