

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

CRIMINAL WRIT PETITION NO.1603 OF 2018

Niraj Bhanushankar Jani & Ors. Petitioners
versus
The State of Maharashtra & Anr. ... Respondents
.....

- Mr.Sharad Rai, Advocate for the Petitioners.
- Mr.A.R.Mourya i/b. ARM Legal, Advocate for Respondent No.2.
- Mrs.P.P. Shinde, APP for the State/Respondent.

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

P.C. :

1. The above Writ Petition has been filed for quashing of the proceedings being Criminal Case No.63/PW/2017, pending on the file of the learned Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The said case has arisen out of the FIR bearing No.90/16 registered with Dahisar Police Station, Mumbai, for the offences punishable u/s 420, 498(A), 406, 354(B) of IPC. The said FIR has arisen out of the matrimonial dispute between the Petitioner No.1 Mr.Neeraj Bhanushankar

Jani and the Respondent No.2 Mrs.Nisha @ Dipali Niraj Jani, who are husband and wife. It is not necessary to further dilate on facts in view of the fact that the Respondent No.2 has filed an affidavit dated 04/04/2018 in the above Writ Petition. The said affidavit is affirmed before the Notary Aliya N. Pathan on 02/04/2018 and bears the Notarial Registration No.02/04/2018. In the context of the relief sought in the above Petition, paragraph No.4 of the affidavit is material and is reproduced herein;

“4. *I say that the Parties are staying separately since last about 2 Years and now they have settled their matter amicably and currently residing at the address as detailed in the cause title of the above Petition and there is nothing left to keep the subjected Criminal Case bearing NO.63/PW/2017 including the FIR No.90 of 2016, registered by the DAHISAR Police Station pending as it is and to carry on with the Trial will humiliate the Parties to the present Petition and as such I Respondent No.2 herein being the Org. Complainant, do hereby grant my irrevocable consent and humbly prays this Hon'ble Court to kindly Quash and set*

aside the subjected Criminal Case bearing No.63/PW/2017 including the FIR No.90 of 2016, registered by the DAHISAR Police Station including the Chargesheet thereto on the terms and condition as this Hon'ble Court deems fit and proper.”

2. It is further stated in the affidavit that the Respondent No.2 is giving her consent without there being any force and compulsion on her of whatsoever nature. The Respondent No.2 is personally present in the Court. She is identified by the learned Counsel Mr.A.R.Mourya. She is further identified by her Aadhar Card bearing No.5015 3755 7719. The Aadhar Card is in her maiden name as Deepali Dilipkumar Trivedi. When put in the box and queried she states she has read the Affidavit and has understood the contents thereof. She further states that she has signed the said affidavit out of the her own free will and volition and that in view of the settlement arrived at with the Petitioner No.1, she does not want to proceed with the case in question.

3. The Petitioner No.1 is also personally present in the

Court. He is identified by the learned Counsel Mr.Sharad Rai. He is also identified by his Aadhar Card No.6155 4217 3830. He accepts the factum of there being a settlement arrived at between him and the Respondent No.2, as a result of which, the Respondent No.2 does not desire to proceed with the case in question. The parents of the Petitioner No.1 and sister of the Petitioner No.1 are also personally present in Court, however, it is not necessary to record their statements, as the Petitioner No.1 and the Respondent No.2 are the main contesting parties, being husband and wife.

4. Having regard to the affidavit filed by the Respondent No.2, as also the statements made by the Respondent No.2 and the Petitioner No.1, when put in the box and queried, the same indicate that the parties have settled their dispute amicably 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 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 Application. No useful purpose would be served in keeping the proceedings pending.

6. The above Criminal Application is accordingly allowed in terms of prayer clause (a). The proceedings being Criminal Case No.63/PW/2017, pending on the file before the learned Metropolitan Magistrate, 26th Court, Borivali, Mumbai, would accordingly stand quashed and set aside. The Petitioner No.1 to deposit costs of Rs.5,000/- with the State Legal Aid Fund, within six weeks from date. Receipt to be obtained and filed in the Registry.

7. The Stridhan, which has been recovered by the Police, a list of which has been made, be handed over to the Respondent No.2. The Petitioner has no objection to the same.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)