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

CRIMINAL APPLICATION NO.459 OF 2018

Mohammad Zahid Mohammad Jaish Khan and Ors. ...Applicants
Versus
The State of Maharashtra and Anr. ...Respondents

Ms.Farhana Shah, for the Applicants.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

Mr.Himanshu Shinde, for the Respondent No.2.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 11th JULY, 2018

P.C. :

1. The above Application has been filed for quashing of the FIR bearing No.428 of 2017 registered with the Versova Police Station, Mumbai, for the offences punishable under Sections 498(A) and 406 of the IPC. The said FIR has arisen on account of the marital discord between the Applicant No.1 and the Respondent No.2, who are husband and wife. It is not necessary to dilate further on facts.

2. The Respondent No.2 i.e. the First Informant has filed an

affidavit dated 18th April, 2018. The said affidavit dated 18th April, 2018, is affirmed before Mr.R.A.Alate , Notary, Greater Mumbai, having his office at 1/B-7, Dongre Sadan, Mohili Village, Sakinaka, Mumbai – 400 072. In the context of the relief sought in the Application, paragraphs 4 and 6 of the said affidavit are material and are reproduced herein under :-

“4. I say that I had lodged a Complaint against my said husband and other Applicants abovenamed on 02.12.2017, at Versova Police Station but as we have come to Settlement I do not intend to pursue the said Complaint hence I request that the said FIR no.428 of 2017 may kindly be quashed.

6 I say that there is no co-ercion, force or any sort of pressure upon me and I am willing stating that I do not intend to pursue my said complaint lodged vide FIR no.428/2017 dated 02.12.2017 may kindly be quashed.”

3. The Respondent No.2 is personally present in Court. She is identified by the learned Counsel Mr.Himanshu Shinde. She is also identified by her Aadhaar Card bearing No. 4817 4906 1105. When put in the box and queried, she states that she has read and understood the contents of her affidavit dated 18th April, 2018, which is tendered by her to the learned counsel for the Applicants in Court today. She further states that in view of the settlement between the parties, she does not desire to proceed with the FIR in question. She lastly states that she has filed the

said affidavit of her own free will and volition.

4. The Applicant No.1 - Mohammad Zahid Mohammad Jaish Khan is also personally present in Court. He is identified by the learned Counsel Ms.Shah. He is also identified by his Aadhaar Card bearing No. 7283 6024 2170. When put in the box and queried, he accepts the factum of 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 FIR in question. It is not necessary to record the statements of the other Applicants who are the relations of the Applicant No.1 being his parents, brother, sister etc.

5. Having regard to the affidavit filed by the Respondent No.2, the statements made by the Respondent No.2 and the Applicant No.1, when put in the box and queried, the same indicate that the parties have amicably settled their dispute, as a result of which, the Respondent No.2 does not desire to proceed with the FIR in question.

6. In the aforesaid context, a useful reference could be made to

the judgments of the Apex Court in the matters of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which lead to the conclusion that no useful purpose would be served in keeping the proceedings pending.

7. The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (A).

8. The above Criminal Application is accordingly disposed of.

9. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute, the Applicant No.1 to deposit costs of Rs.10,000/- with the State Legal Aid Fund 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