

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 468 OF 2018**

Mr. Siddharth Ashok Nimbalkar

..Applicant

Vs.

The State of Maharashtra & Anr

..Respondents

Ms Deepika M Bafna for the Applicant

Mr. R. M. Yamgar a/w Mr. Avinash Reddy for the Respondent No.2

Mrs. A. S. Pai Addl PP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 26th APRIL, 2018

PC.

1 The above Criminal Application has been filed for quashing and setting aside of the proceedings being C.C.No.1023/PS/2009 pending on the file of the Learned Metropolitan Magistrate, Railway Mobile Court, Andheri Mumbai. The said case has arisen out of the FIR being C. R.No. 88 of 2009 registered with the Meghwadi Police Station for the offences punishable under Section 509 of the Indian Penal Code, 1860, r/w Section 6 of the Indecent Representation of Women (Prohibition) Act, r/w Section 67 of the Information Technology Act. The cause for filing the FIR has been mentioned therein. It is not necessary to dilate further on facts in view of the fact that the parties have amicably resolved their dispute. The Respondent No.2 has executed Compromise Terms dated 3-4-2018 which are filed in the above Criminal

Application and have been annexed as Exhibit C to the above Criminal Application. The said Compromise Terms have been signed by the Applicant and the Respondent No.2. The first informant i.e. the Respondent No.2 has filed an affidavit in the above Criminal Application which is dated 3-4-2018 which is affirmed before the Notary C. L. Sharma, Notary Government of India having his address at C-26, Hiramani Dadabhai Cross Road-2, Andheri (W) Mumbai. The affirmation is also of 3-4-2018. In the context of the relief sought in the above Petition paragraph 2 of the said Compromise Term is material and is reproduced hereinunder.

2. That the respondent No.2 hereby undertakes to co-operate the petitioner in all her capacity for quashing the proceedings bearing No.1023/PS/2009 which was clubbed with the private complaint bearing No.59/SW/2010 which is presently pending before Hon'ble Metropolitan Magistrate Railway Court, Andheri, Mumbai.

In so far as the affidavit is concerned, paragraph 4 of the said affidavit is material and is reproduced hereinunder.

4. I state and submit that this affidavit is filed without any pressure, coercion or force and I am bound to respect the same and therefore, I accord my consent to this Hon'ble Court to quash the proceedings bearing C. C. No.1023/PS/2009 and all other consequential proceedings against the petitioner.

2 The Respondent No.2 Shernaz Noshir Kapadia is personally present in Court. She is identified by the Learned Counsel Mr. R. M. Yamgar.

She is also identified by her Adhar Card bearing No. 363273232356. When put in the box and queried, she states that she has read and understood the Compromise Terms as also the affidavit which is filed in the above Criminal Application and annexed to the above Criminal Application and that she has signed the said affidavit of her own free will and volition. Lastly she states that she does not want to proceed with the FIR in question in view of the settlement between her and the Applicant.

3 The Applicant Siddharth Ashok Nimbalkar is personally present in Court. He is identified by the Learned Counsel Ms Deepika Bafna. He is also identified by his Adhar Card bearing No.317541799455. When put in the box and queried he accepts the factum of settlement 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.

4 Having regard to the Compromise Terms and the affidavit filed by the Respondent No.2, 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 settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the FIR in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr**¹ and

¹ (2012) 10 SCC 303

Narinder Singh & ors v/s. State of Punjab & Anr¹, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

5 The Applicant and the Respondent No.2 to deposit costs of Rs.10,000/- each totalling to Rs.20,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ 2014 AIR SCW 2065