

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1779 OF 2018**

Pratik Kishor Shah : **Petitioner.**
Versus
The State of Maharashtra and anr. : **Respondents.**

Mr. S P Singh for the Petitioner.
Mr. K V Saste, Addl. PP for the Respondent/State.
Mr. G R Hegde a/w Mr. Arsha Vaid for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 15th JUNE 2018

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being No.102 of 2015 registered with Shivaji Park Police Station, Dadar, Mumbai on 29/04/2015 for the offences punishable under Sections 498A, 406, 504, 506 and 34 of the Indian Penal Code.

2 The said FIR is a consequence of the marital discord between the Petitioner and the Respondent No.2 herein. It is not necessary to dilate further on facts. It seems that the parties were before the Family Court in Petition No.A-1327 of 2015 filed by the Petitioner herein for divorce. In the said proceedings the parties reached a settlement before the Marriage Counsellor which settlement was reduced into writing by way of the Consent Terms dated 30/01/2018. The said Consent Terms are exhaustive in nature, however, in so far as the above Writ Petition is concerned, in clause 6(a) it is provided that the Petitioner would file an application for quashing of the FIR and in clause 6(b)

it has been mentioned that in alternative to clause 6(a), the Respondent would withdraw the case bearing FIR No.102 of 2015. The said clauses 6(a) and 6(b) are reproduced herein under for the sake of ready reference :-

“6(a) The Petitioner will file an application u/s 482 of the Code of Criminal Procedure, 1973 for quashing of the FIR number 102/2015 in the Hon'ble Bombay High Court prior to the passing of the order of dissolution of marriage and the Respondent herein agrees and undertakes to co-operate by remaining personally present and by filing an affidavit to that effect.

6(b) Alternatively to clause 6(a) the Respondent shall withdraw case bearing number Fir number 102/2015, before the Shivaji Park, Mumbai Police station prior to the passing of the order of dissolution of marriage.”

3 The Respondent No.2 has also filed an affidavit dated 13/06/2018 sworn before N. Raja, Notary, Union of India, Greater Bombay. The said affidavit dated 13/06/2018 bears notarial registration No.186 dated 13/06/2018. In the context of the relief sought in the above Writ Petition, paragraphs 3 and 4 of the said affidavit are material and are reproduced herein under :-

“3 I respectfully submit that I have 'No Objection' of whatsoever nature and am hereby voluntarily and of my own accord give consent for quashing of FIR No.102/2015 registered under Section 498(A)(B), 406, 504, 506 r/w Section 34 of I.P.C. On 29/04/2015 at my instance by Shivaji Park Police Station, Dadar, as prayed by the Petitioner.

4 I say that I want to move on in my life and do not want to prosecute and/or pursue said FIR registered at

my instance by the police.”

4 The Respondent No.2 Mrs. Priyanka Pratik Shah is personally present in Court. She is identified by the learned counsel Shri G R Hegde. She is also identified by her Aadhar Card bearing No.238660654359. The said Aadhar Card is in her maiden name as Priyanka Rajiv Agarwal. When put in the box and queried she accepts the factum of the Consent Terms being filed before the Family Court. She further states that the affidavit tendered today by the learned counsel Shri G R Hegde is hers and that she has read and understood the contents of the said affidavit and that she has filed the said affidavit of her own free will and volition. She lastly states that she does not desire to proceed with the FIR in question in view of the settlement arrived at between her and the Petitioner who is her husband.

5 The Petitioner – Pratik Kishor Shah is personally present in Court. He is identified by the learned counsel Shri S P Singh. He is also identified by his driving license bearing No. MH-01- 20110016995 issued on 10/12/2002 and valid till 09/12/2022. When put in the box and queried he accepts the factum of settlement being arrived at between the parties which is reflected by Consent Terms dated 30/01/2018. He further states that is on account of the settlement that the Respondent No.2 does not desire to proceed with the FIR in question.

6 Having regard to the affidavit filed by the Respondent No.2 and the statements made by the Respondent No.2 and the Petitioner when put in the box and queried, the same lead to a conclusion that the parties have amicably resolved their dispute as a result of which the Respondent No.2 is not desirous of proceeding with the FIR in question.

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, no useful purpose would be served in keeping the FIR pending.

8 The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

9 The Petitioner to deposit costs of Rs.5,000/- each to the High Court Law Library, Mumbai and Kirtikar Law Library, High Court Bombay, within six weeks from date. Receipts to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]