

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

CRIMINAL APPLICATION NO.471 OF 2017

Sundeep Vashdev Mulani & Ors.

... Applicants

Vs.

The State of Maharashtra & Anr.

... Respondents

Mr.K.R.Shukla a/w Mr.Brijesh Shukla for the Applicants.

Ms.S.R.Kanojia i/b D.G.Gujral for the Respondent No.2.

Mrs.S.D.Shinde, APP for Respondent-State.

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

DATE : 13th AUGUST, 2018

P.C.

1 Leave to amend is granted so as to incorporate a reference to the charge sheet in prayer clause (a). Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing and setting aside the charge sheet filed in respect of FIR No.52 of 2017, registered with the RCF Police Station, Mumbai, for the offences punishable under Sections 498A, 406, and 34 of the IPC. The said FIR has arisen out of the marital disputes between the Applicant No.1 and the Respondent No.2 who at the relevant time were husband and wife. The parties were also before the Family Court in Mumbai by way of Marriage Petition No.A-393 of 2017 which was filed by the Respondent No.2 initially for a decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act. In the said Marriage Petition, the parties arrived at a settlement before the marriage counsellor which was

reduced into writing by way of Consent Terms dated 23-5-2018. In terms of the said Consent Terms, the parties agreed to obtain divorce by mutual consent which is reflected in clause (9) of the Consent Terms. The parties have also agreed to settle all their disputes including withdrawal of the cases filed against each other. The Marriage Petition had thereafter come up before the Family Court No.5 at Mumbai and by judgment and order dated 4-6-2018 the marriage between the Petitioner No.1 and the Respondent No.2 came to be dissolved by a decree of divorce by mutual consent under Section 13(b) of the Hindu Marriage Act. The Consent Terms were made part of the decree. The Respondent No.2 has filed the affidavit affirmed in this court today i.e. 12-7-2018. In the context of the relief sought in the above Writ Petition, paragraphs 9 and 10 are material and are reproduced hereinunder:

9. I say that I have received my Stridhan and all articles claimed by me and there remains nothing with Applicant and I shall have no future claims pertaining to my Stridhan on any articles and I shall not have any claim from Applicant or any other family member, friends and relatives in future.

10. I say that I have given my consent for quashing of above captioned matter i.e. FIR No.52/2017 registered with RCF Police Station and I further say that there is no coercion, undue influence, fraud by any person and I say that my consent is free consent.

3 The Respondent No.2 i.e. the First Informant is personally present in Court. She is identified by learned Counsel Ms.S.R.Kanojia i/b Mr.D.G.

Gujral. She is also identified by her Aadhar Card bearing No.9093 7493 2207. When put in the Witness Box and queried, she accepts the factum of the affidavit dated 12th July 2018 filed on her behalf. She further states that she has read and understood the contents of the said affidavit, and that she has filed the said affidavit in view of the settlement between the parties. She lastly states that she has filed the affidavit of her own free will and volition.

4 As indicated above, the Applicant Nos.1 to 3 are abroad and, therefore, it is the Applicant No.4, who is personally present in Court. The Applicant No.4 is identified by learned counsel Mr.K.R.Shukla. She is also identified by her Election Card issued by the Election Commission of India bearing No.ROL 3666484. She is the sister of the Applicant No.1, who is the husband of the Respondent No.2 i.e. the First Informant. She accepts the factum of settlement between her brother i.e. the Applicant No.1 and the Respondent No.2. As a result of which, the Respondent No.2 is not desirous of proceeding with case in question.

5 Having regard to the affidavit filed by the Respondent No.2 i.e. the First Informant, the Consent Terms dated 23rd May 2018, which have been arrived at in the Family Court and the statements made by the Respondent No.2 and the Applicant No.4 when put in the Witness Box and queried, the same indicate 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. In the aforesaid factual backdrop, useful reference should be made to the Judgments of the Apex Court in the the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, which would assist in quashing of the FIR in question in view of the settlement between the parties. The above application is, therefore, required to be allowed and is accordingly allowed in terms of prayer clause (a).

6 In the facts and circumstances of the case where the machinery of this Court is utilized for settling the dispute, the Applicants to deposit costs of Rs.25,000/- to be deposited with the SRCC, Haji Ali, Worli within 6 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