

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

CRIMINAL WRIT PETITION NO.1844 OF 2018

Dilnawaz Ali Jarar Siddiqui & Ors. .. Petitioners

Vs.

State of Maharashtra & Anr. .. Respondents

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Ms.Pooja V. Pandey, Advocate for the Petitioners.

Mr.Deepak Thakare, PP a/w. Mr.K.V. Saste, Addl. PP, for the Respondent - State.

Mr.Sufian Qureshi, Advocate for Respondent No.2.

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**CORAM : R.M. SAVANT AND
PRAKASH D. NAIK, JJ.**

DATED : JUNE 26, 2018.

P.C. :

The above writ petition has been filed for quashing of the First Information Report being no.470 of 2017, registered with Powai Police Station, Mumbai on 1st October, 2017, for the offences punishable under Sections 465, 471, 420, 384, 323, 506(II) and 34 of the Indian Penal Code. The respondent no.2 herein is the first informant and the petitioners herein are the husband and his relations. The said FIR has arisen out of the dispute between the parties as regards the documents which

were produced by the petitioner no.1 before the Marriage Registering Authorities, which according to the respondent no.2 were forged and fabricated documents. It is not necessary to dilate further on facts. The parties were before the Family Court, as the as respondent no.2 had filed Marriage Petition No.B/73 of 2017, for seeking a declaration as regards Khulanama, namely, that the applicant no.1 Dilnawaz Ali Jarar Siddiqui and respondent no.2 Farheen Abdul Quddus Khan are divorced. In the said marriage petition, the parties arrived at a settlement which was reduced into writing by way of "Consent Terms for Settlement". In terms of the said Consent Terms, the parties agreed that the Khulanama shall be treated as valid. The respondent no.2 also agreed that she would support the applicant no.1 in getting the proceedings being FIR No.470 of 2017, quashed and set aside upon confirmation of the decree of divorce from the Family Court. The said Consent Terms are annexed to the petition as Exhibit-"G".

2 The respondent no.2 has also filed an affidavit bearing yesterday's date i.e. 25th June, 2018. The said affidavit has been affirmed before Mr.M.Arshad Ejaz on 25th June,2018. The said Arshad Ejaz has his office in Kurla West, Mumbai-400

070. The affidavit bears the Notarial Registration No.33 at Serial No.841, dated 25th June,2018. In the said affidavit, a reference is made to the deed of settlement. It is further stated that the affidavit has been filed by respondent no.2 without any force or coercion. In the context of the reliefs sought in the above application, paragraph 5 of the said affidavit is material and is reproduced herein as under:

“5 I say that I have executed deed of settlement with Petitioner No.1 and do not wish to continue the prosecution of the accused persons named in C.R.No.470/2017 registered at my instance by Powai Police Station.”

3 The respondent no.2 is personally present in Court. She is identified by the learned counsel Mr.Sufian Qureshi. She is also identified by her Aadhar Card bearing No.787975135371. When put in the box and queried, she states that she has read and understood the contents of the said affidavit and she has signed the said affidavit of her own free will and volition. She further states that in view of the settlement between the parties, she does not desire to proceed with the FIR in question. The petitioner no.1 Dilnawaz Ali Jarar Siddique is also personally

present in Court. He is identified by the learned counsel Mr.Pandey. He is also identified by his Aadhar Card bearing No.792501131990. When put in the box and queried, he accepts the factum of the settlement between him and the respondent no.2. As a consequence of which, the respondent no.2 does not desire to proceed with the FIR in question. Applicant no.2, the father of the applicant no.1 Ali Jarrar Ali Bahadur Siddiqui is also personally present in the Court. He is identified by his Aadhar Card bearing No.375087734612. He accepts the factum of settlement between the applicant no.1 and the respondent no.2. In view of the statement recorded of the applicant no.1 and the applicant no.2, it is not necessary to record the statement of other applicants, though they are personally present in Court.

4 Having regard to the “Consent Terms for Settlement” dated 6th December, 2017, the affidavit filed by the respondent no.2 dated 25th June, 2018, the statement made by the respondent no.2, the applicant no.1 and the applicant no.2, when put in the box and queried, the same unequivocally indicate that the petitioners have now settled their dispute as a consequence 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 case of ***Gian Singh Vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Os. Vs. State of Punjab & Anr.***², no useful purpose would be served in keeping the FIR pending as it would unnecessarily cause mental agony and stress to the respondent no.2 and the applicant no.1. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer Clause (b). The above Writ Petition is, accordingly, disposed of.

5 The applicants to deposit costs of Rs.25,000/- with the State Legal Aid Fund within 6 weeks from today. Receipt to be obtained and filed in the Registry.

(PRAKASH D. NAIK, J.)

(R.M. SAVANT, J.)

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065