

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

CRIMINAL WRIT PETITION NO.1858 OF 2018

Zaveri Amrutlal Gala : Petitioner.
Versus
The State of Maharashtra and anr. : Respondents.

Mrs. Seema Santosh Singh for the Petitioner.
Mr. K V Saste, Addl. PP for the Respondent/State.
Mr. Mohd. I. Javed for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 08th JUNE 2018

P.C.

1 The above Writ Petition has been filed for quashing and setting aside of the proceedings being CC No.346/PW/2011 pending on the file of the learned Metropolitan Magistrate, 17th Court, Borivali, Mumbai which has arisen out of the FIR No.157 of 2010 for the offences punishable under Sections 498A, 406 and 34 of the Indian Penal Code. The said FIR has arisen out of the matrimonial dispute between the Petitioner and the Respondent No.2 who are husband and wife.

2 It seems that the parties were before the Family Court, Mumbai, in MJ Petition No.A-2035/2014 which was filed for divorce by mutual consent under Section 13B of the Hindu Marriage Act. In the said Petition the parties arrived at a settlement and reduced the same into writing by way of Consent

Terms dated 11/04/2018. The said Consent Terms inter alia contain the terms and conditions to which the parties have agreed. It is not necessary to refer to in detail the said terms and conditions. However, in the context of the present Writ Petition clause 7 of the said Consent Terms is material and is reproduced herein under

“7 The Petitioner wife shall give her no objection to the Petition, at her cost, as and when the Respondent husband files the same in the Hon'ble High Court of Bombay for quashing the F.I.R. in C.,R.No.157/2010 u/s. 498A & 406, I.P.C. In C.C. No.346/PW/2011, pending in the 17th Court of the the learned Counsel appearing for the. M. M. at Borivali, Mumbai and shall extend her co-operation to the Respondent husband by remaining present in the High Court during the hearing of the said Petition and by filing her affidavit in respect thereof in the said Petition. The cost and the legal fees towards the quashing petition shall be borne by the Respondent husband. This clause of the consent terms is subject to the Respondent husband depositing the amount of Rs.7,00,000/- in the Hon'ble Family Court as per clause No.4.”

3 The Respondent No.2 – Divya Zaveri Gala i.e. the first informant also filed her affidavit affirmed in this Court on 08/06/2018. In the context of the relief sought in the above Writ Petition, paragraph 2 of the said affidavit is material and is reproduced herein under :-

“2 I say that I have no objection to the reliefs prayed for by the Petitioner. I hereby give my consent for quashing of the F.I.R. in C.R. No.157/2010 registered against the Petitioner by Kandivali Police Station,

Mumbai on my complaint.”

4 The Respondent No.2 Divya Zaveri Gala is personally present in Court. She is identified by the learned counsel Shri Mohd. I Javed. She is also identified by her Election Identity Card bearing No.MT/04/024/285214. When put in the box and queried, she accepts the factum of the settlement arrived at between the parties. She further states that the affidavit tendered today by her counsel Shri Mohd. I Javed is her and that she has read and understood the contents of the said affidavit and that she has signed the said affidavit of her own free will and volition.

5 The Petitioner – Zaveri Amrutlal Gala is also personally present in Court. He is identified by the learned counsel Mrs. Seema S Singh. He is also identified by his Aadhar Card bearing No.693155318048. When put in the box and queried, he accepts the factum of the settlement arrived at 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.

6 Having regard to the Consent Terms arrived at between the parties before the Family Court in MJ Petition No.A-2035 of 2014, the affidavit dated 08/06/2018 filed by the Respondent No.2 and the statements made by the Respondent No.2 and the Petitioner when put in the box, as also 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, there is now no impediment to quash the FIR in question as no useful purpose would be served in keeping the same pending. The dispute between the parties is also purely of a personal nature.

7 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. The Petitioner 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 of this Court.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]