

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1883 OF 2018**

Tushar Suresh Somkuwar

..Petitioner

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Ahmed Abdi a/w Mr. Shrikant Ingle and Ms Swati Chaurasia i/b Abdi & Co. for the Petitioner

Respondent No.2 present

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

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

DATE : 15th JUNE, 2018

P.C.

1 The above Writ Petition has been filed for quashing and setting aside of the proceedings bearing CC No.3184/PW/2017 arising out of FIR being C. R. No.356 of 2017 dated 4-7-2017 registered with the Andheri Police Station for the offences punishable under Section 354-D, 506(2) and 509 t/w Section 67A of the Information Technology Act, 2000.

2 The gravamen of the allegations against the Petitioner is in respect of the whats up messages allegedly sent by him to the Respondent No.2 herein. It is not necessary to further delve into facts. The first informant i.e. the Respondent No.2 herein has filed an Affidavit dated 12-4-2018 styled as consent Affidavit and affirmed before Ramesh Tiwari, Advocate and Notary, Government of India, having his office at Marol Naka, Andheri (E) Mumbai. Paragraph 4 of the said affidavit assumes importance in the context of the

relief sought by the Petitioner in the above Petition. The said paragraph 4 is reproduced hereinunder:

4. I have perused the said Writ Petition and agree with the contents thereof. I have no objection rather I give my irrevocable express consent for quashing the said FIR/CR No.356/2017 and all subsequent proceedings arising therefrom. I hereby undertake to appear before this Hon'ble Court to confirm my consent for quashing of the said FIR and further proceedings as and when required.

3 The Respondent No.2 Nishtha Amit Lakhani is personally present in court. She is identified by her Pan Card bearing No.AEWPL1446H. She is accompanied by her husband Mr. Amit Lakhani. When put in the box and queried she accepts the factum of settlement between her and the Petitioner. She further states 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 is not desirous of proceeding with the FIR in question. The husband of the Respondent No.2 Mr. Amit Lakhani also states that he is also not desirous of the Respondent No.2 proceeding with the FIR in question.

4 The Petitioner Tushar Somkuvar is personally present in Court. He is identified by the Learned Counsel Mr. Ahmed Abdi. He is also identified by his Adhar Card bearing No.519504916495. The said Adhar Card bears his address as Sandure Layout, near Railway Station, Katol, Nagpur. When put in the box and queried he accepts that the affidavit filed today i.e. 15-6-2018 and

affirmed before N Raja Notary, is his and that the contents of the said affidavit are acceptable to him. He further assures the Court that he would abide by the assurance/undertaking given by him in the said affidavit.

5 Having regard to the affidavit filed by the Respondent No.2, the statements made by the Respondent No.2 and her husband as also the statement made by the Petitioner 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 & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the proceedings being CC No.3184/PW/2017 would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

6 In the facts and circumstances of the case, we are of the view that the interest of justice would be served if the Petitioner is directed to pay costs of Rs.10,000/- to be deposited with the National Association of Blind, 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