

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 500 OF 2016**

Mazahirul Ehsan & Ors

..Applicants

Vs.

The State of Maharashtra & Anr

..Respondents

**Mr. Kaman Shaikh, Ms Priyanka Sinha and Ms Ankita i/b A & P Partners
for the Applicants**

Mr. S. B. Chaurasia for the Respondent No.2

Mr. R. M. Pethe, APP for the Respondent State

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 20th JUNE, 2018**

PC.

1 At the outset the learned Counsel for the Applicants seeks leave to amend so as to amend prayer clause (a) thereby providing for quashing the charge sheet. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed seeking quashing and setting aside the charge sheet being C.C. No.2385/PW/2017 arising out of FIR No.194 of 2016 registered with the Oshiwara Police Station for offences punishable under Section 498A, 420, 406, 503, 506 r/w 34 of IPC. The said FIR has been registered on account of the marital discord between the Applicant No.3 and the Respondent No.2 who are husband and wife. It seems that the parties arrived at an out of court settlement which statement is evidenced by the Samjauta Kararnama which is notarised before the notary

public Mr. K.K. Agarwal, Jamshedpur. The said Samjauta Kararnama has been executed on a non judicial stamp paper. The said Samjauta Kararnama is annexed to the above Application as Exhibit C at on page 23 onwards and the typed version is at pages 25(A) to 25(B).

3 The Respondent No.2 Sana Afreen Khan who is the first informant has filed an affidavit bearing today's dated i.e. 20-6-2018. The said affidavit has been affirmed before Divya S. Sanghvi notary, Government of India, Greater Mumbai. The said affidavit bears notarial registration No.707 bearing today's date. In the context of the relief sought, paragraph 4 of the said affidavit is material and is reproduced hereinunder:

4. I am filing this affidavit by giving consent to quashing the FIR No.194 of 2016 under Criminal Application No.500 of 2016 pending before the Hon'ble High Court of Bombay and intend to settle the matter amicably with the Applicant.

4 The Respondent No.2 Sana Afreen Khan is personally present in Court. As indicated above the affidavit has also been affirmed today before the notary public. The Respondent No.2 is identified by the Learned Counsel Mr. Sandeep Chaurasia. She is also identified by her Adhar Card bearing No.831309689365. When put in the box and queried she states that the affidavit tendered by the Learned Counsel is her's and she has read and understood the contents of the said affidavit. She further states that in view of

the settlement between her and the Applicant No.3 that she does not desire to proceed with the case in question.

5 The Applicant No.3 Shahbad Ehasaan is also personally present in Court. He is identified by the Learned Counsel Mr. Shaikh. He is also identified by his Pan Card bearing No.CBGPA5686M. When put in the box and queried he accepts the factum of settlement arrived at between the parties which is reduced in to writing by way of Samjauta Kararnama. He further states that in view of the settlement between the parties that the Respondent No.2 does not desire to proceed with the case in question.

6 The parties have also been divorced in view of the Deed of Divorce / Khulanama executed on 12-4-2016 at Jamshedpur which is accepted by both the Applicant No.3 and the Respondent No.2 when queried.

7 Having regard to the Samjauta Kararnama executed at Jamshedpur, the divorce between the Applicant No.3 and the Respondent No.2, the affidavit filed by the Respondent No.2 dated 20-6-2018 wherein she has unequivocally given her consent for quashing of the FIR and the statements made by the Applicant No.3 and the Respondent No.2 when put in the box and queried, discloses that the Respondent No.3 who is the first informant is not desirous of proceeding with the case 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 Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the charge sheet would stand quashed and set aside. The above Criminal Application is accordingly disposed of.

8 The Applicant No.3 to deposit costs of Rs.10,000/- and the Respondent No.2 also to deposit costs of Rs.10,000/-, with the State Legal Aid Fund within 6 weeks from date. Receipts 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