

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 139 OF 2017**

Yogesh Sanat Asher	..Applicant
Vs.	
Mrs. Nisha Yogesh Asher & Anr	..Respondents

Mr. Anoop Pandey i/b Mr. Vishal Gupta for the Applicant
Ms Kirti H Purohit for the Respondent No.1
Mr. V. B. KondeDeshmukh Addl PP for the Respondent State

**WITH
CRIMINAL APPLICATION NO.524 OF 2018**

Mr. Nirav Sanat Asher & Ors	..Applicants
vs.	
Mrs. Nisha Yogesh Asher & Anr	..Respondents

Mr. A.R. Pandey for the Applicants
Ms Kirti H Purohit for the Respondent No.1
Mr. V. B. KondeDeshmukh Addl PP for the Respondent State

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 22nd JUNE, 2018**

P.C.

1 The Learned Counsel for the Applicant in Criminal Application No.139 of 2017 seeks leave to amend so as to amend prayer clause (a) so as to provide for quashing of the charge sheet. Amendment to be carried out forthwith.

2 The above Applications have been filed for quashing of the charge sheet being CC No.332/PW/2017 arising out of FIR No.133/2015 registered for the offence punishable under Section 498A, 406, 326, 341 read with 34 of the IPC. The parties were also before the Family Court in Marriage Petition No.F-440 of 2017. Before the Family Court, the parties arrived at a settlement which was reduced into writing by way of Consent Terms dated 7-2-2017. The said Consent Terms have been signed by the parties and their respective Advocates. The said Consent Terms were filed in the Family Court and a decree in terms of Consent Terms was passed on 11-8-2017.

3 In so far as Application No.139 of 2017 is concerned, the same has been filed by the relatives of the Applicant i.e. his brother, sister-in-law and paternal aunt.

4 Respondent No.1 has filed an affidavit in each of the above Applications which are dated 22-6-2018. In the context of the relief sought in the above Applications, it is required to be noted that in the said affidavits the Respondent No.1 has referred to the settlement arrived at between the parties resulting in the Consent Terms being filed by the parties, withdrawal of the domestic violence proceedings, withdrawal of the alimony by the Respondent No.1 as also the settlement made by the Respondent No.1 by her going through the papers etc., she is aware of the facts and circumstances of the

case and having filed the affidavit without undue influence or pressure from anybody. In paragraph 9 of the said affidavit, it is stated thus.

9. In the light of the above I most humbly state and submit that this Hon'ble Court may quash and set aside the C. R. No.133 of 2015 filed against the Applicants herein.

The said paragraph 9 is parimateria in both the affidavits.

5 The Respondent No.1 is personally present in Court. She is identified by her Adhar Card bearing No.832541804297. The said Adhar Card is in her maiden name as Nisha Pancholi. When put in the box and queried she states that she has read and understood the contents of her affidavit filed in the above Applications. She further states that in view of the settlement between the parties she does not desire to proceed with the case in question. She lastly states that she has filed the affidavit of her own free will and volition.

6 The Applicant husband Yogesh Asher is personally present in Court. He is identified by the Learned Counsel Mr. Anoop Pandey i/b Mr/ Vishal Gupta. He is also identified by his Adhar Card bearing No.745590712054. When put in the box and queried, he accepts the factum of settlement between him and the Respondent No.1 i.e. the first informant as a result of which the Respondent No.1 does not desire to proceed with the case

in question. Since the Applicant Yogesh Asher is the main contesting party, it is not necessary to record the statements of the other Applicants who are his relatives.

7 The Consent Terms filed in the Family Court on the basis of the consent decree has been passed by the Family Court, affidavit filed by the Respondent No.1 in each of the above Applications, statements made by the Respondent No.1 and the Applicant Yogesh Asher when put in the box and queried, lead to a conclusion that the parties have settled their dispute as result of which the Respondent No.1 does not desire to proceed 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 Applications are required to be allowed and are accordingly allowed and made absolute in terms of prayer clause (a), resultantly the charge sheet would stand quashed and set aside. The above Criminal Applications are accordingly disposed of.

8 The Learned Counsel for the Applicants Mr. Pandey on instructions states that the allegations made against the Learned Counsel Ms Purohit would stand withdrawn.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

9 The Learned Counsel for the Respondent No.1 undertakes to file her vakalatnama in Criminal Application No.524 of 2018. Statement accepted.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]