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

CRIMINAL WRIT PETITION NO.1939 OF 2018

Yogesh Ramnivas Mishra and Anr.	...Petitioners
Versus	
Yashasvi Yogesh Mishra and Anr.	...Respondents

Mr.R.J.Baddam i/b SR Lex, for the Petitioners.

Ms.Sejal D. Shah, for the Respondent No.1.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

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

DATE : 21st JUNE, 2018

P.C. :

1. The above Petition has been filed for quashing of the proceedings being C.C.No.1613/PW/2016, pending on the file of the learned Metropolitan Magistrate, 60th Court, Kurla, Mumbai. The said proceedings are arising out of the FIR No.38 of 2016 registered with the Trombay Police Station, Mumbai on 3rd February, 2016, for the offences under Sections 498(A), 504, 506, 323, 406 r/w 34 of the Indian Penal Code. The said FIR has arisen on account of the marital discord between the

Petitioner No.1 and the Respondent No.1, who are husband and wife. The Petitioner No.2 is the father of the Petitioner No.1. The parties were involved in various proceedings amongst which were the proceedings under the Domestic Violence Act filed by the Respondent No.1 and the Petition for Restitution of Conjugal Rights filed by the Petitioner No.1 herein in the Family Court, Mumbai. In the said Petition being M.J.Petition No.A-854 of 2017, the parties have arrived at a settlement, which is reduced into writing by way of 'Consent Terms for Divorce'. The said Consent Terms *inter alia* provide various aspects which include the amounts payable on account of permanent alimony etc. Insofar as, the present proceedings are concerned, in Clause-7 of the Consent Terms, it is provided as under:-

“7. Respondent is agreed to withdraw/quashing 498(A) case No.PWD/1613/2016 which is filed against petitioner and his family members which is pending before 60th Metropolitan Magistrate Court, at Kurla, after depositing the above said amount.”

2. The Respondent No.1 has also filed an affidavit in the above Petition which is dated 18th June, 2018, which is affirmed in this Court on the same day i.e. 18th June, 2018. In the context of the relief sought in the

above Petition, paragraphs 3 and 4 of the said affidavit are material and are reproduced hereinunder:-

- “3. I state that pursuant to the overall settlement between the Petitioners and myself, we have decided by mutual consent to dissolve the said marriage. The Consent Terms has already been filed before Hon'ble Family Court at Bandra.
4. I say and submit that in view of the said facts, it would be a waste of time and no useful purpose would be served if the said C.R. No.1613/PW/2016 is allowed to be investigated.”

3. The Respondent No.1-Yashasvi Yogesh Mishra, is personally present in Court. She is identified by the learned counsel Ms.Sejal Shah. She is also identified by her Pan Card bearing No.ARJPP2703R. The said Pan Card is in her maiden name Yashasvi Radheshyam Pandey. When put in the box and queried, she states that she has read and understood the contents of the said affidavit which is filed in the above Petition, which was emailed to her by her counsel. She further states that in view of the settlement between her and the Petitioner No.1, she does not desire to proceed with the case in question. She lastly states that she has filed the

said affidavit of her own free will and volition.

4. The Petitioner No.1-Yogesh Ramnivas Mishra is also personally present in Court. He is identified by the learned counsel Mr.Baddam. He is also identified by his Aadhar Card bearing No. 6789 5778 2049. When put in the box and queried, he accepts the factum of settlement between him and the Respondent No.1, as a result of which the Respondent No.1 does not desire to proceed with the case in question. It is not necessary to record the statement of the Petitioner No.2, who as indicated above is the father of the Petitioner No.1, in view of the statement recorded of the Petitioner No.1. Hence the facts as aforesaid disclose that the Respondent No.1 is not desirous of proceedings with the case in question, in view of the amicably settlement arrived at between the parties.

5. In the said context, a useful reference could be made to the judgments of the Apex Court in the matter of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which would assist the parties in the quashing of the proceedings in

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

question as no useful purpose would be served in keeping the said proceedings pending.

6. The above Criminal Writ Petition is therefore required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a).

7. The above Criminal Writ Petition is accordingly disposed of.

8. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Petitioner No.1 to deposit costs of Rs.5,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)