

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 543 OF 2018**

Anish Pushpan & Ors

..Applicants

Vs.

Iram Anish Pushpan & Anr

..Respondents

**Mr. Mrinal Pillai i/b Ms Madhavi Pillai for the Applicants
Mrs. P. P. Shinde APP for the Respondent Stated
Ms Ghazala Z. Khan for the Respondent No.2**

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 24th JULY, 2018**

P.C.

1 Leave to amend is granted so as to incorporate a challenge to the charge sheet. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the charge sheet being Case No.1237/PW/2014 arising out of C. R. No.327 of 2013 for offence punishable under Sections 498A, 506(2) and 34 of the IPC. The said C. R. is arising out of the matrimonial dispute between the Applicant No.1 and the Respondent No.1 who are husband and wife. It is not necessary to dilate further on facts. The parties were before the Family Court in Petition No.A-1397 of 2015 and Petition No.D-24 of 2014. In the said Petitions the parties arrived at Consent Terms on 11-4-2018 before the marriage counsellor which evidence the settlement arrived at between the parties. In paragraph 13

of the Consent Terms a reference has been made to the instant proceedings being No.1237/PW/2014 being prosecuted for offence punishable under Section 498A of the IPC amongst other offences. It is stated in the said paragraph that the Respondents i.e. the Respondent No.1 undertakes not to prosecute the Applicants i.e. the Applicant No.1 herein. In paragraph 23, it is postulated that on compliance of all the terms of the Consent Terms common judgment and decree be passed on both the Petitions i.e. the instant proceedings as well as Petition No.D-24 of 2014.

3 The Respondent No.1 has also filed an affidavit dated 16-6-2018 affirmed before Mrs. Aliya Pathan, Notary Government of India being notarial registration No.31028. Paragraphs 7 and 8 of the said affidavit are material and are reproduced hereinunder:

7. I say that I have validly filed the C.R. No.327/2017 dated 28-12-2013, and the contents are true and correct and I am consenting for the quashing of the proceeding in view of the consent terms dated 11th April 2018 settling all the disputes and withdrawing all the allegations.

8. In view of the above, the applicant be directed to kindly remove / delete clause (a), (f) and (h) of Para No.7 of the application which are objectionable to me and on deleting the said paragraphs the FIR No.327/2013 u/s 498(A), 506(II) & 34 Indian Penal Code be quashed.

4 The Respondent No.1 Iram Anish Pushpan is personally present in Court. She is identified by the Learned Counsel Ms Ghazala Khan. She is also

identified by her Pan Card No.BQYPA5472M, which is in her maiden name Ansari Iram. When put in the box and queried she accepts the factum of the affidavit being filed on her behalf in the above Application. She further states that she has read and understood the contents of the said affidavit and she has filed the said affidavit in view of the settlement arrived at between the parties. She lastly states that she has signed the said affidavit of her own free will and volition.

5 The Applicant No.1 Anish Pushpan is personally present in court. He is identified by the Learned Counsel Mr. Mrinal Pillai. He is also identified by his Adhar Card bearing No.822454334662. 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. The other Applicants i.e. parents of the Applicant No.1 are also personally present in Court. However, it is not necessary to record their statements in view of the statement of the Applicant No.1 which has been recorded as regards the settlement arrived at between the parties.

6 Both the Applicant No.1 and the Respondent No.1 make a statement that they would withdraw the allegations made against each other. In view thereof the grievance of the Respondent No.1 reflected in paragraph 8 of her affidavit stand assuaged.

7 Having regard to the Consent Terms dated 11-4-2018 filed by the Respondent No.1 and the Applicant No.1, as also affidavit filed by the Respondent No.1 dated 16-6-2018, the statements made by the Respondent No.1 and the Applicant No.1 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.1 does not desire to proceed with the case in question. In the context of the fact situation as above a useful reference would be made 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 case in question pending. The above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (aa), resultantly the Case No.1237/PW/2014 would stand quashed and set aside. The above Criminal Application is accordingly disposed of.

8 The Applicants to deposit costs of Rs.10,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065

9 The Respondent No.1 to deposit costs of Rs.5,000/- with the Kirtikar Law Library, High Court, Mumbai, within 6 weeks from date. Receipt to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

**Meera
Mahesh
Jadhav**

Digitally signed
by Meera
Mahesh Jadhav
Date:
2018.07.25
11:26:19 +0530