

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 556 OF 2018**

Pranita Deepak Virdikar	...Applicant
Versus	
The State of Maharashtra & Ors.	...Respondents

Mr. U. Gandhi i/b Ms.Gunjan Thakkar for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent Nos. 1 & 2-State

Ms. K. R. Shah i/b Mr. Rishi Bhuta for the Respondent No.3

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
MONDAY, 25th JUNE, 2018***

P.C. :

1 The above Application is filed for quashing of the proceedings in Sessions Case No. 203 of 2017 arising out of C.R. No. 131 of 2016 which was registered with the Malad Police Station for the offences punishable under Sections 376, 342, 323, 506 of the Indian Penal Code. The said FIR is a fall out of the relationship that the Applicant and the first informant were in, and which relationship had gone sour. It is not necessary to dilate further on facts. Suffice it would be to state that the above Application for quashing is premised on the fact that the physical

relationship that the parties had, was consensual. The parties also proposed to file Consent Terms in the above Application evidencing the settlement arrived at between the parties. We have, however, not taken the said Consent Terms on record. The question that is posed before us is, whether we should exercise our jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of the proceedings in question.

2 The learned counsel appearing on behalf of the Applicant Mr. Gandhi sought to rely upon the orders passed by the Division Benches of this Court in Criminal Application No. 1419/2016-order dated 2nd December 2016 (Coram : V.M. Kanade and Ms. Nutan D. Sardesai, JJ); in Criminal Writ Petition No. 2821 of 2017-order dated 19th July 2017 (Coram: Ranjit More & Sarang V. Kotwal, JJ.); in Writ Petition No. 3959 of 2017-order dated 6th October 2017 (Coram: Ranjit More & Prakash D. Naik, JJ.) and in Criminal Application No. 564 of 2014-order dated 16th September 2014 (Coram: Bhushan R. Gavai & V.M. Deshpande, JJ.). It was the submission of the learned counsel for the Applicant Mr. Gandhi, that the said orders quashing the FIR/proceedings in question have been passed in identical fact situations and relying upon the judgments of the

Apex Court in *Narinder Singh vs. State of Punjab*¹ and *Gian Singh vs. State of Punjab*², the learned counsel would contend that all the cases before the said Division Benches were involving offences punishable under Section 376 of the Indian Penal Code.

3 In the context of the relief sought in the above Application i.e. quashing of the proceedings in question on account of the settlement arrived at between the parties, a useful reference could be made to the judgment of the Apex Court in the matter of *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat & Anr.*³. The Apex Court in the said case was concerned with the exercise of the inherent powers under Section 482 by the High Court for quashment of the FIR/complaint/criminal proceedings. The Apex Court traced the development of law insofar as the said aspect is concerned and in the said process, referred to its earlier judgments in the cases of *Jayesh Arvindlal Patel vs. State of Gujarat*⁴, *Gian Singh (supra)*, *Narinder Singh (supra)* and *State of Maharashtra vs. Vikram Anantrai Doshi*⁵, *CBI vs. Maninder*

1 (2014) 6 SCC 466

2 (2012) 10 SCC 303

3 (2017) 9 SCC 641

4 (2016) SCC Online Guj 8778

5 (2014) 15 SCC 29

Singh⁶ and lastly **State of Tamil Nadu vs R. Vasanthi Stanley**⁷. The Apex Court, after referring to the aforesaid judgments, culled out the broad principles which emerged from the said precedents. Insofar as the present proceedings are concerned, paragraph 16.6 of the broad principles which have been culled out is material and is reproduced hereunder :

“16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.”

Hence, the Apex Court has carved out an exception insofar as heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity, which the Apex Court has observed, cannot appropriately be quashed, though the victim or family of the victim has settled the dispute. It is having regard to the judgment of the Apex Court in **Parbatbhai Aahir (supra)** that the Applicant would not be entitled to the

6 (2016) 1 SCC 389

7 (2016) 1 SCC 376

relief of quashment of the proceedings on account of the settlement between the parties.

4 In that view of the matter, no relief can be granted to the Applicant. The Application is accordingly rejected. However, in the facts and circumstances of the case, where the first informant and the Applicant are young, we deem it appropriate to expedite the trial and direct the concerned Court to dispose of the case in question by 31st December 2018.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.