

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 2042 OF 2018**

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|-----------------------------------|----------------|
| Ajitsinh Narpatsinh Rathod & Ors. | ...Petitioners |
| Versus                            |                |
| Pratima Ajitsinh Rathod & Anr.    | ...Respondents |

Mr. Vikram R. Sutaria for the Petitioners

Mr. Niraj N. Shah for the Respondent No. 1

Mr. V. B. Konde-Deshmukh, A.P.P for the Respondent No.2-State

***CORAM : R. M. SAVANT &  
REVATI MOHITE DERE, JJ.  
FRIDAY, 29<sup>th</sup> JUNE, 2018***

**P.C. :**

1           The above Petition has been filed for quashing and setting aside of the proceeding being RCC No.188/PW/2010, pending on the file of the learned Judicial Magistrate First Class, Silvassa, Dadra and Nagar Haveli. The said proceedings have arisen out of the FIR being C.R No. 117 of 2010 registered with the Silvassa Police Station against the Petitioners for the offences punishable under Sections 498A, 504, 506 (2) r/w 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act. The said FIR is on

account of the marital discord between the Petitioner No.1 and the Respondent No.1 who are husband and wife. The parties, it seems, were involved in matrimonial proceedings which ultimately gave rise to Family Court Appeal No. 152 of 2017 filed in this Court by the Petitioner No.1. In the said Family Court Appeal, the parties arrived at a settlement, which was reduced into writing by way of Consent Terms dated 18<sup>th</sup> June 2018. The said Consent Terms have been signed by the Petitioner No. 1 and the Respondent No. 1 and their Advocates.

2        A Division Bench of this Court vide order dated 18<sup>th</sup> June 2018, disposed of the Appeal in terms of the Consent Terms. The Consent Terms provided for a Decree of Divorce by mutual consent between the Petitioner No. 1 and the Respondent No. 1.

3        The Respondent No.1 herein has filed an affidavit bearing today's date and affirmed in this Court today. In the context of the relief sought in the above Writ Petition, paragraph 4 of the said affidavit is material and is reproduced herein under.

“4.            *I say and reiterate, that I do not have any*

*objection for the quashing of Criminal proceeding i.e. RCC No. 188 of 2010 pending before Ld. C.J.M. Court at Silvassa, arising out of CR No. 117 of 2010 registered with Silvassa Police Station, Silvassa in view of the amicable settlement between parties.”*

4           The Respondent No.1 is also personally present in Court. She is identified by the learned counsel Mr. Niraj Shah. She is also identified by her Aadhar Card bearing No. 691573377018. The said Aadhar Card has the address of Kumbhar Wada, Naroli, Dadra and Nagar Haveli. When put in the box and queried, she states that she has read and understood the contents of the affidavit bearing today's date tendered by her learned counsel. She further states that she has filed the said affidavit in view of the settlement between the parties and in view thereof, she states that she does not desire to proceed with the case in question. Lastly, she states that she has filed the affidavit of her own free will and volition.

5           The Petitioner No.1-Ajitsinh Narpatsinh Rathod is personally present in Court. He is identified by the learned counsel Mr. Vikram Sutaria. He is also identified by his Aadhar Card bearing

No. 531037944864. When put in the box and queried, he accepts the factum of settlement between the parties. As a result of which, the Respondent No. 1 does not desire to proceed with the case in question. In view of the fact that the Respondent No. 1 is the main contesting Respondent, it is not necessary to record the statements of the other Petitioners.

6                    Having regard to the filing of the Consent Terms by the parties in the Family Court Appeal No. 152 of 2017, the Decree of Divorce passed on the said basis, the affidavit dated 29<sup>th</sup> June 2018 filed by the Respondent No.1 and the statements made by the Petitioner No. 1 and the Respondent No.1 when put in the box and queried, the same lead to a conclusion that the parties have amicably resolved their dispute, as a consequence of which, the Respondent No.1 does not desire to proceed with the case in question.

7                    Having regard to the judgments of the Apex Court in the matters of *Gian Singh vs. State of Punjab & Anr.*<sup>1</sup> and *Narinder*

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1 (2012) 10 SCC 303

***Singh & Ors. vs. State of Punjab & Anr.***<sup>2</sup>, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a).

8                   The above Criminal Writ Petition is accordingly disposed of.

9                   In the facts and circumstances, the Petitioners to deposit costs of Rs.5,000/- in total, with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the Registry.

***REVATI MOHITE DERE, J.***

***R. M. SAVANT, J.***

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<sup>2</sup> 2014 AIR SCW 2065