

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

CRIMINAL WRIT PETITION NO.2079 OF 2018

Kaushik Vilas Kulkarni & Ors. Petitioners
versus
The State of Maharashtra & Anr. ... Respondents
.....

- Mr.D.G. Dhanure a/w Jyoti D. Dhanure a/w Omer Kadu
Advocate for the Petitioners.
- Mrs.Neha Kulkarni, Respondent No.2 present.
- Mrs.P.P. Shinde, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 04th MAY, 2018.**

P.C. :

1. The above Writ Petition has been filed for quashing of the FIR bearing No.76/17 registered with Sanpada Police Station, Navi Mumbai, for the offences punishable u/s 498-A, 323, 504 r/w 34 of the Indian Penal Code.
2. The said FIR has arisen out of the marital discord between the Petitioner No.1 and the Respondent No.2, who are husband and wife. The Respondent No.2 has lodged the FIR in

her maiden name, which is Neha Kulkarni, which is also appearing in the cause title. The parties were also involved in proceedings under The Protection of Women from Domestic Violence Act 2005 (D.V. Act) being M.A. No.252/17. In the said proceedings the parties have arrived at Consent Terms. The said Consent Terms have provided vide clause No.2(b) for quashing of the FIR lodged by the Respondent No.2 by mutual co-operation between the parties. The parties have agreed that the proceedings for quashing will be filed within two weeks of the said Consent Terms being filed in the D.V. proceedings.

3. The Respondent No.2 Neha Kulkarni has also 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 No.5 of the said affidavit is material and is reproduced hereinunder;

“5. I say that in the above facts and circumstances, I have no objection if this Hon'ble Court passing order thereby quashing and setting aside the RCC No.

95/2018 (Section 498-A case)/FIR (CR No. 76/2017) registered at Sanpada Police Station, Navi Mumbai against the Petitioners.”

4. However, prior thereto in the earlier paragraph, the Applicant has referred to the Consent Terms dated 20/04/2018 filed in the D.V. proceedings. The Respondent No.2 is also personally present in Court. She is identified by her passport number which is stored in her mobile. The same is No.H7705798. When put in the box and queried she accepts that the Consent Terms are filed in the D.V. proceedings. She further states that she has understood the contents of the affidavit and she has signed the said affidavit of her own free will and volition. Lastly she states that in view of the settlement between the parties, she does not desire to proceed with the FIR in question.

5. The father of the Respondent No.2 Mr.Vijay Kulkarni is also personally present in Court. He is identified by his Aadhar Card No.3826 9113 2185. When put in the box and queried he

states that the Consent Terms are acceptable to his daughter and to him also and that he has also gone through the affidavit filed by his daughter i.e. the Respondent No.2 and that the same is also acceptable to him.

6. The Petitioner No.1 Kaushik Vilas Kulkarni is also personally present in Court. He is identified by the learned Counsel Mr.D.G. Dhanure. He is also identified by his Aadhar Card No.6166 6993 0386. When put in the box and queried he accepts the factum of settlement having taken place between the parties, as a result of which the Respondent No.2 does not desire to proceed with the FIR in question.

7. Having regard to the affidavit filed by the Respondent No.2 in this Court, the Consent Terms filed in the D.V. proceedings as well as the statements made by the Respondent No.2 and her father when put in the box and the statement of the Petitioner No.1 Kaushik Kulkarni, the same indicate that the parties have settled their dispute, as a result of which the

Respondent No.2 does not desire to proceed with the FIR in question.

8. The Petitioner Nos.2 and 3 are also present in Court. However, it is not necessary to record their statements.

9. Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s. State of Punjab & Anr. Reported in (2012) 10 SCC 303 and Narinder Singh & Ors. V/s. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the proceedings pending.

10. The above Writ Petition is accordingly allowed in terms of prayer clause (a). The Petitioners to deposit costs of Rs.10,000/- with the State Legal Aid Fund, within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)