

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 592 OF 2018**

Satyavan Ashok Mayekar & Ors. ...Applicants
Versus
The State of Maharashtra & Anr. ...Respondents

Dr. S. S. Karmarkar a/w Ms. Supriya Maurya for the Applicants

Dr. F. R. Shaikh, A.P.P for the Respondent No.1-State

Mr. P. S. Mishra for the Respondent No. 2

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
FRIDAY, 10th AUGUST 2018***

P.C. :

1 The above Application has been filed for quashing of the proceedings being CC No. 594/PW/2017 pending on the file of the learned Additional Metropolitan Magistrate, 24th Court, Borivali, Mumbai. The said case has arisen out of FIR being C.R. No. 480 of 2015 for the offences punishable under Sections 498A, 406, 323 and 34 of the Indian Penal Code registered with the Malwani Police Station, Mumbai. The said FIR is a consequence of the marital discord between the Applicant No. 1 and the

Respondent No. 2, who are husband and wife. The parties are also before the Family Court in Marriage Petition No. A-1648 of 2015, which was originally filed for divorce on the ground of cruelty. The parties were referred for counselling and before the Counsellor, the parties have arrived at a settlement, which is reduced into writing by way of Consent Terms for divorce by mutual consent. The said Consent Terms *inter alia* contain the terms and conditions on the basis of which, the parties have mutually agreed to obtain divorce by mutual consent. Insofar as the present proceedings are concerned, they find a place in Clause 5(a) of the Consent Terms. The Respondent No. 2 has agreed for withdrawal/quashing of the proceedings filed by her under Section 498A after she receives the first instalment of Rs. 2,50,000/-. The Respondent has accordingly been paid the amount of Rs. 2,50,000/- which is evidenced by the receipt dated 19th April 2018, which is annexed to the Petition at page 66.

2 The Respondent No. 2 has filed an affidavit dated 21st June 2018, which is affirmed before Mr. Bidhu Panicker, Advocate High Court, Notary (Government of India), Sector 20, Near Balaji Temple, Nerul (West), Navi Mumbai. In the context of the present Application, paragraphs

7, 8 and 9 of the said affidavit are relevant and are reproduced hereinunder for the sake of ready reference:

“7. That, I have no objection, if the said Application is allowed and the case against the Applicants herein is quashed/set aside.

8. That, I am making this Affidavit without any force, fraud or coercion at the hands of the Applicants or any person on their behalf and I am deposing it with my free will.

9. I am swearing this Affidavit to support the Application of the Applicant herein to quash the proceedings against the Applicants herein, in connection to C. R. No. 480 of 2015 lodged with Malwani Police Station, Mumbai, presently pending before the the learned Counsel appearing for the. Addl. Metropolitan Magistrate's 24th Court at Borivali, Mumbai, bearing CC. No. 594/PW/2017.”

3 The Respondent No. 2-Madhavi is personally present in Court. She is identified by the learned counsel Mr. Parag Mishra. She is also identified by her Aadhar Card bearing No. 870039137539. The Aadhar Card is in her maiden name Madhavi Shridhankar. When put in the box and queried, she states that she has read and understood the contents of the affidavit dated 21st June 2018. She states that she has received the amount of Rs. 2,50,000/-, which is the first instalment in terms of the Consent Terms. She further states that in view of the settlement between the parties,

she has filed the said affidavit. She lastly states that she has filed the affidavit of her own free will and volition and that she does not desire to proceed with the FIR in question.

4 The Applicant No.1 Satyavan Mayekar is personally present in Court. He is identified by the learned counsel Dr. S. S. Karmarkar. He is also identified by his Aadhar Card No. 795339315997. When put in the box and queried, he accepts the factum of settlement having taken place between him and the Respondent No. 2, as a result of which, the Respondent No. 2 is not desirous of proceeding with the case in question. In view of the statement recorded of the Applicant No. 1, it is not necessary to record the statements of the other Applicants.

5 Having regard to the Consent Terms dated 15th February 2018 filed in the Family Court, the affidavit filed by the Respondent No. 2 and the statements made by the Respondent No. 2 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. 2 is not desirous of proceeding with the case in question.

6 In the factual backdrop as above, 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 lead to a conclusion that no useful purpose would be served in keeping the proceedings pending, in view of the settlement between the parties.

7 The above Application is accordingly allowed and made absolute in terms of prayer clause (a).

8 In the facts and circumstances of the case, the Applicant No.1 to deposit costs of Rs.2,000/- 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.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065