

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.579 OF 2017

Mr. Deepak Shyamsundar Gupta & Ors.Applicants
V/s.
The State of Maharashtra & Ors.Respondents

Mr. K.S.Shetty with Mr. M.K.Kini, Advocates for Applicants.
Mr. K.V.Saste, APP for the Respondent-State.
Mr. V.A.Gore, Advocate for Respondent No.3.

**CORAM :- R.M.SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 13TH FEBRUARY, 2018.

PC. :-

The above Application has been filed for quashing of the FIR being C.R.No.217 of 2015 registered with the Bangur Nagar Police Station for the offences punishable under Sections 498A, 323, 324, 504, 506, 406 and 34 of IPC. The Petitioner No.1-Dipak and the Respondent No.3-Madhumita are husband and wife. The FIR has arisen out of the matrimonial disputes between the Petitioner No.1-Deepak and the Respondent No.3-Madhumita. Parties were also before the Family Court, Mumbai and they filed the Petition for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act. It seems that the proceedings under the Domestic

Violence Act are also pending before the concerned Metropolitan Magistrate's Court. The other Petitioners are the mother, father and sister of the husband. The First Informant, i.e., the Respondent No.3 has filed her affidavit dated bearing today's date i.e. 13.2.2018. The said affidavit has been affirmed in this Court today. In the context of the reliefs sought in the above Application, paragraphs 6 and 10 of the said affidavit are material and are re-produced hereunder:

“6 I state that in view of the settlement, the petitioner no.1 has agreed to pay the sum of Rs.20,00,000/- (Rupees Twenty Lakhs Only) to me towards the permanent alimony for me and said minor daughter and I have agreed to withdraw all the allegations made against the petitioners herein in C.C.No.3948/SS/2014 and also in FIR No.217/2015 registered with the Bangur Nagar Police Station without any coercion, undue influence fraud or force with sole intention to restart and/or lead fresh life.

10 I state that since I want to settle in my life after passing of the decree of dissolution of marriage by the Hon'ble Family Court under Section 13(b) of the Hindu Marriage Act, 1955 hence I have got no other remedy to challenge the proceeding of the present case filed by the Complainant.”

The Respondent No.3 is also personally present in Court. She is identified by the learned counsel Mr. Vinay A. Gore. She is also identified by her PAN Card bearing No.DDZPS1240B. When put in the box and queried, she states that she has read the affidavit dated 13.2.2018 tendered by her learned counsel. She further states that

she has understood the contents of the said affidavit and that she has filed the said affidavit of her own free will and volition. The Petitioner No.1-Dipak Shyamsunder Gupta is also personally present in Court. He is identified by the learned counsel Mr. Kishor Shetty who appears along with the advocate on record Mr. M.K.Giri. He is also identified by his Election Voting Card issued by the Election Commission of India bearing No.IPS2645249 issued on 4.8.2017 showing the constituency as 73, Laxmi Nagar and the Assembly Constituency as 58 Laxmi Nagar. When put in the box and queried, he states that he has arrived at a settlement with the Respondent No.3. As a result of which the Respondent No.3 has filed affidavit bearing today's date and also does not want to proceed with the FIR. The other Petitioners are also present in the Court. However, it is not necessary to record their statements separately as the Petitioner No.1 is the main contesting party.

2 Reading of the said affidavit of the Respondent No.3 as also having regard to the statements made by the Respondent No.3 and the Petitioner No.1 when put in the box and queried, the same makes it clear that the parties have settled their disputes as a result of which the Respondent No.3 does not desire to proceed with the FIR. Having regard to the judgment of the Apex Court in the case

of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. The Petition is accordingly allowed and made absolute in terms of prayer clause (a).

3 In the facts and circumstances of the case where the machinery of this Court is utilised for settlement of their disputes, the Petitioners to pay the costs of Rs.10,000/- to be deposited with the Maharashtra Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)