

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

CRIMINAL WRIT PETITION NO.2431 OF 2018

Armaan Kohli : Petitioner.
Versus
Neeru Randhwa and anr. : Respondents.

Ms. Lakshmi Raman for the Petitioner.
Mr. S R Phanse for the Respondent No.1.
Mr. R M Pethe, APP for the Respondent/State.
IO - Mr. Suresh Pandit Walvi – API, Santacruz Police Station present.

CORAM : **R. M. SAVANT &**
REVATI MOHITE DERE, JJ.
DATE : **15th JUNE 2018**

P.C.

1 The above Writ Petition has been filed by the Petitioner for quashing and setting aside of the FIR bearing C.R. No.326 of 2018 dated 03/06/2018 registered with the Santacruz Police Station for the offences punishable under Sections 323, 326, 504 and 506 of the Indian Penal Code.

2 The first informant is the Respondent No.1 herein and the lodgment of the said FIR is a fall out of the relationship in which the Petitioner and the Respondent No.1 were in. The Petitioner is presently incarcerated in Arthur Road Jail in view of his arrest after the said FIR was lodged and he is presently in magisterial custody.

3 The Respondent No.1 herein has filed an affidavit dated 06/06/2018 affirmed before Ravinder Singh Dhall, Advocate & Notary, Greater Mumbai and bears notarial registration No.248 dated 06/06/2018. The said affidavit is in the nature of a consent affidavit filed by the Respondent No.1 who is the first informant thereby giving her consent for quashing the FIR being C.R. No.326 of 2018. The said consent which appears in paragraph 5 of the said affidavit is prefaced by facts relating to the settlement arrived at between the Petitioner and the Respondent No.1 on account of the intervention of the relatives of the Petitioner and mutual friends. It is stated in the said affidavit that as a result of the said settlement the Petitioner has paid an amount of Rs.50,00,000/- (Rupees Fifty Lakhs) to the Respondent No.1 in full and final settlement of their disputes.

4 The Respondent No.1 today has also filed further affidavit bearing today's date i.e. 15/06/2018. The said affidavit is affirmed before Mrs. Aliya N Pathan, Notary, Greater Mumbai, Government of India and bears notarial registration No.30298 dated 15/06/2018. The said affidavit refers to some further talks which took place between the parties between yesterday and today as a result of which the Respondent No.1 is to receive further amount of Rs.50,00,000/- (Rupees Fifty Lakhs) from the Petitioner. The manner in which the said amount is to be paid is mentioned in paragraph 4 of the said affidavit.

5 In the context of the relief sought in the above Writ Petition, paragraph 5 of the said affidavit dated 06/06/2018 is material and is reproduced herein under :-

“5 I say that in view of the aforesaid settlement, I do not wish to proceed with the F.I.R. registered with the Santacruz Police Station, Mumbai. I hereby give my consent and pray that the Hon'ble High Court of Judicature at Bombay be pleased to quash the C.R. No.326 of 2018 registered with Santacruz Police Station.”

6 The Respondent No.1 – Neeru Randhwa is personally present in Court. She is identified by the learned counsel Shri S R Phanse. She is also identified by her British Passport bearing No.308760717. The said passport has been issued on 30/12/2009 and is to expire on 30/12/2019. When put in the box and queried, she states that the affidavit dated 06/06/2018 and the latest affidavit dated 15/06/2018 are hers and that she has read and understood the contents of the said affidavits. She further states that a settlement has been arrived at between the Petitioner and her as a result of the said settlement she has received an amount of Rs.50,00,000/- (Rupees Fifty Lakhs) and is to receive an amount of Rs.50,00,000/- (Rupees Fifty Lakhs) which has been mentioned in the 2nd affidavit. She further states that in view of the said settlement, she does not desire to proceed with the FIR in question.

7 Since the Petitioner is incarcerated, he is not present in Court.

However, his brother in law i.e. sister's husband Shri Raman Uggersain Bhandari is personally present in Court. He is identified by the learned counsel Ms. Lakshi Raman. He is also identified by his Aadhar Card bearing No.9563 4351 3747. When put in the box and queried, he accepts the factum of settlement having taken place between the Petitioner and the Respondent No.1 herein.

8 We to assure ourselves had enquired about the injury sustained by the Respondent No.1, we are informed that the injury is on the forehead and 15 stitches have been put. Having regard to the said injury, question would arise whether the said injury would fall within any of the clauses of Section 320 of the Indian Penal Code so as to attract the punishment under Section 326 of the Indian Penal Code. Be that as it may, having regard to the affidavits filed by the Respondent No.1 dated 06/06/2018 and 15/06/2018 which discloses that a settlement has been arrived at between the Petitioner and the Respondent No.1 and having regard to the statements made by the Respondent No.1 and the brother in law of the Petitioner Shri Raman Uggersain Bhandari, the same lead to a conclusion that the parties have amicably resolved their dispute as a result of which the Respondent No.1 is not desirous of proceeding with the FIR in question.

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, and having regard to the fact that the Respondent No.1 is not desirous of proceeding with the FIR in question, no useful purpose would be served in keeping the FIR pending.

10 The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

11 However after the hearing which took place yesterday i.e. on 14/06/2018 we had directed the Petitioner to file his affidavit expressing remorse and regret as also assuring and undertaking to this Court that he would not indulge in such an act in future. Accordingly an affidavit of the Petitioner has been tendered today which is dated 14/06/2018 affirmed on 15/06/2018 before the Senior Jailor, Mumbai Central Prison, Mumbai. Paragraphs 4, 5, 6 and 7 reflect the remorse, regret, assurance and undertaking of the Petitioner. He accepts the fact that such an opportunity may not be provided to him in the future if such an incident may arise. We are satisfied with the said affidavit. We hope and trust that the Petitioner would abide by whatever has been stated by him in the said affidavit in its true spirit.

12 Apart from the said affidavit which we had directed the Petitioner to file we are also of the view that since the Petitioner has invoked the jurisdiction of this Court for quashing of the FIR, the Petitioner would have to contribute something towards the society. We therefore direct the Petitioner to deposit an amount of Rs.1,00,000/- (Rupees One Lakh) with Tata Memorial Hospital, to be utilised for the children department for cancer, and another amount of Rs.1,00,000/- (Rupees One Lakh) with the National Association of Blind, Worli, Mumbai within 6 weeks from date. Receipts to be obtained and filed in the Registry of this Court.

13 The learned counsel for the Petitioner Ms. Lakshmi Raman tenders two post dated cheques for the amount of Rs.25,00,000/- (Rupees Twenty Five Lakhs) dated 14/09/2018 drawn on IDBI Bank, Juhu Versova, Mumbai Branch bearing No.136294 and Rs.25,00,000/- (Rupees Twenty Five Lakhs) dated 14/11/2018 drawn on IDBI Bank, Juhu Versova, Mumbai Branch bearing No.136295. The said cheques have been issued by the brother of the Petitioner Shri Rajnish Kohli towards payment of the amount mentioned in the second affidavit of the Respondent No.1. The learned counsel for the Petitioner Ms. Lakshmi Raman on instructions assures this Court that the said cheques would be honoured.

14 In view of the FIR in question being quashed, the Petitioner to be

forthwith released from the Arthur Road Jail, Mumbai.

15 All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

16 The learned APP Shri R M Pethe to communicate the aforesaid development to the jailer concerned.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]