

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2439 OF 2018**

Sumit Babanrao Sakore & Ors.	...Petitioners
Versus	
State of Maharashtra & Anr.	...Respondents

Ms. Rekha Musale i/b Mr. Rajesh A. More for the Petitioners

Mr. R. M. Pethe, A.P.P for the Respondent No.1-State

Mr. Irfan A. A. Aziz for the Respondent No. 2

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
TUESDAY, 31st JULY, 2018***

P.C. :

1 The above Petition has been filed for quashing of the proceedings being R.C.C. No. 2301 of 2015 pending before the learned Judicial Magistrate First Class, Pune, arising out of FIR bearing No. 30 of 2015 registered with the Sinhgad Road Police Station on 26th January 2016 for the offences punishable under Sections 498A, 504 and 34 of the Indian Penal Code.

2 The said proceedings have arisen on account of the marital discord between the Petitioner No. 1 and the Respondent No. 2 who are husband and wife. It is not necessary to dilate further on facts. The parties were also before the Family Court, Pune in Petition being PA No. 912 of 2017, which was filed by the Respondent No. 2 herein for divorce. In the said Petition, the parties arrived at a settlement which was reduced into writing by way of a Settlement Deed dated 18th November 2017. In Clause (10) of the said Settlement Deed, the present proceedings being R.C.C No. 2301 of 2015 has been referred to and it has been stated that the Respondent No. 2 agrees to withdraw the said proceedings. The parties have also provided for divorce by mutual consent under Clause (1) of the said Settlement Deed. The Settlement Deed also contains other terms and conditions, which we are not concerned with, as they are not relevant for the purposes of the present Petition.

3 The Respondent No. 2 has filed an affidavit bearing today's date i.e. 31st July 2018, which is affirmed in this Court today. In the context

of the present Petition, paragraphs 4 and 6 of the said affidavit are material and are reproduced hereinunder :

“4. I state that I have resolved the dispute with above said petitioners with the intervention of our family members and therefore, I don't want to proceed against him and thus, I wish to withdraw the said FIR.

6. I state that in view of above, I am making the present affidavit in support of the above writ petition to give my consent to quash and set aside the said FIR.”

4 The Respondent No. 2 is personally present in Court. She is identified by the learned counsel Mr. Irfan A. A. Aziz. She is also identified by her Aadhar Card bearing No. 455386210484. When put in the box and queried, she states that she has read and understood the contents of her affidavit bearing today's date i.e. 31st July 2018. She further states that she has filed the said affidavit, in view of the settlement between the parties, as a result of which, she is not desirous of proceeding with the case in question. She lastly states that she has filed the affidavit of her own free will and volition.

5 The Petitioner No. 1-Mr. Sumit Babanrao Sakore is personally present in Court. He is identified by the leaned counsel Ms. Rekha Musale.

He is also identified by his PAN Card No. BZZPS8770A. 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 does not desire to proceed with the case in question. In view of the statement recorded by the Petitioner No. 1, it is not necessary to record the statements of the other Petitioners who are his relations.

6 The facts as stated hereinabove, therefore, disclose that the parties have resolved their dispute. As a result of which, the Respondent No.2 is not desirous of proceeding with the case in question. In the said factual backdrop, 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, assume importance. The said judgments would aid in quashing of the proceedings in question.

7 In the facts and circumstances of the present case, the above Writ Petition is, therefore, required to be allowed and is accordingly allowed in terms of prayer clauses (a) and (b).

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

8 The Petitioner No.1 to deposit cost of Rs.10,000/- 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.