

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2527 OF 2018**

Nitin Vanaji Bedse & Ors

..Petitioners

Vs.

Mrs. Hemlata Nitin Bedse & Anr

..Respondents

Ms Suvarna Avhad Vast for the Petitioners

Mr. Jitendra Tiwari for the Respondent No.1

Mr. R.M. Pethe APP for the Respondent State

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ**

DATE : 20th JUNE, 2018

P.C.

1 Mentioned. Taken out of turn.

2 The Petitioner No.1 and the Respondent No.1 who are husband and wife are seeking quashing of the proceedings being CC No.993/PW/2015 pending on the file of the Learned Metropolitan Magistrate 49th Court, Vikhroli. The said case is arising out of MECR registered at the behest of the Respondent No.1 for the offence punishable under Section 498A, 406 and 34 of the IPC. The said MECR has arisen on account of the marital dispute between the Petitioner No.1 and the Respondent No.1. Since the parties are seeking quashing of the proceedings by consent, it is not necessary to dilate further on facts.

3 It seems that the parties were before the Family Court Mumbai in

Marriage Petition No.2775 of 2017 which was filed by the Respondent No.1 and the Petitioner No.1 for seeking divorce by mutual consent u/s 13(B) of the Hindu Marriage Act. In the said Petition the parties arrived at a settlement which was recorded by way of Consent Terms which was filed before the Family Court on 14-11-2017. In the context of the present Petition clause (3) of the Consent Terms is material and is reproduced hereinunder:

3. The Petitioner No.2 has paid amount of Rs.1,00,000/- in cash to the Petitioner No.1 at the time of filing of this Petition on 14-11-2017 out of permanent alimony as mentioned in para no.11 herein above. Petitioner No.1 do hereby acknowledge receipt of Rs.1,00,000/- in cash from Petitioner No.2. Upon receiving the amount of Rs.1,00,000/- the Petitioner No.1 shall immediately proceed with the Petitioner No.2 to quash / withdraw the proceedings of criminal case filed u/s 498A, 406, 34 of IPC vide MECR No.05/2014 and the proceedings of Domestic Violence and which are pending before the learned M.M.Court at Vikhroli and shall give full co-operation to the Petitioner No.2.

4 The Respondent No.1 has also filed an affidavit affirmed in this Court on 12-6-2018. In the context of the relief sought in the above Writ Petition paragraph 9 of the said affidavit is material and is reproduced hereinunder:

9. I pray that this Hon'ble Court, in the interest of justice, be pleased to allow the prayer of the Petitioners to quash and set aside the proceeding arising out of charge-sheet filed u/s 498A, 406, 34 of IPC (being C. C. No.993/PW/2015) which is pending before the learned 49th Metropolitan Magistrate's Court Vikhroli, Mumbai.

5 The Respondent No.1 Hemlata Bedse is personally present in Court. She is identified by the Learned Counsel Mr. Jitendra Tiwari. She is also identified by her Pan Card bearing No.AIMPJ6737D which stands in her maiden name Hemlata Muktar Jadhav. When put in the box and queried she states that she has read and understood the contents of the affidavit which is tendered across the bar today by her Learned Counsel which is dated 12-6-2018. She further states that in view of the settlement between her and the Petitioner No.1 she does not desire to proceed with the case in question. She lastly states that she has filed the said affidavit of her own free will and volition.

6 The Petitioner No.1 Nitin Vanaji Bedse is also personally present in Court. He is identified by the Learned Counsel Ms Suvarna Avhad Vast. He is also identified by his Pan Card bearing No.AMWPB1252B. When put in the box and queried he accepts the factum of the settlement having taken place between him and the Respondent No.1. The other Petitioners are the relations of the Petitioner No.1 and it is therefore not necessary to record their statements.

7 Having regard to the Consent Terms which were filed in the Family Court on 14-11-2017, affidavit dated 12-6-2018 filed by the

Respondent No.1 i.e. the first informant, the same indicate that the Respondent No.1 does not desire to proceed with the case in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), however, restricted to quashing of the proceedings being CC No.993/PW/2015, as the Domestic Violence case No.39/N/2013 is already withdrawn. The above Criminal Writ Petition is accordingly disposed of.

8 The Petitioner No.1 to deposit costs of Rs.10,000/- with the State Legal Aid Fund within 6 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