

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

CRIMINAL WRIT PETITION NO.2544 OF 2018

Arvind Anant Sawant and ors. : Petitioners.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. M N Dhamal for the Petitioners.
Mrs. S D Shinde, APP for the Respondent/State.
Mrs. Manisha M Kothari for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 26th JULY 2018

P.C.

1 The above Writ Petition has been filed for quashing of the proceedings being CC No.1225/PW/2016 pending on the file of the learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai arising out of the FIR being No.266 of 2015 dated 11/07/2015 registered with Ghatkopar Police Station, Mumbai for the offences punishable under Section 498A r/w 34 of the Indian Penal Code. The said FIR is a result of the matrimonial discord between the Petitioner No.1 and the Respondent No.2 who are husband and wife.

2 The parties were before the Family Court, Mumbai in Marriage Petition No.A-1399 of 2015. In the said proceedings the parties have arrived at a settlement before the Panel of the Family Court on 10/02/2018 which has been reduced into writing by way of "Consent Terms for Divorce" which Consent Terms are annexed as Annexure D to the above Writ Petition at page

No.69. In the context of the relief sought in the above Writ Petition, clause 6 of the said Consent Terms is material and is reproduced herein under :-

“6 Both the parties are reported that respondent has filed a criminal case against the petitioner and his family members u/s. 498 A of I.P.C. bearing case No.C.C./1225/PW/2016 and which is pending before Hon'ble Metropolitan Magistrate Court at Vikhroli.

Now, in view of this settlement respondent undertakes that she shall not proceed further in this matter after decree of divorce and she shall co-operate with the petitioner to finalise/defuse/quash the said proceeding.”

3 Thereafter by judgment and order dated 26/02/2018 the marriage between the Petitioner No.1 and the Respondent No.2 was dissolved by decree of divorce by mutual consent. The said judgment and order of the Family Court, Mumbai is annexed as Annexure-E to the above Writ Petition at page 71.

4 The Respondent No.2 has filed her affidavit dated 19/07/2018 and affirmed in this Court on the said day i.e. 19/07/2018. Paragraphs 7 and 8 of the said affidavit are material and are reproduced herein under :-

“7 I say that I have received notice of present criminal application of this court served to my advocate. I say that I have agreed before Family Court in consent terms that I will co-operate for quashing the F.I.R. No.266 of 2015 dated 11th July 2015 for offences u/s

498 (A) of Indian Penal Code read with 34 of I.P.C. with Vikhroli Police Station. Vikhroli Police Station then filed charge sheet in the court of Metropolitan Magistrate, 49th Court, Vikhroli vide Court Case No.1225/PW/2016.

8 I hereby state that I do not want to proceed with the said complaint filed by me against all the Applicants herein.”

5 The Respondent No.2 Mrs. Aparna Arvind Sawant is personally present in Court. She is identified by the learned counsel Mrs. Manisha Kothari. She is also identified by her Aadhar Card bearing No.706731266691 which stands in her maiden name Kalpana Vasant Bhujbal. When put in the box and queried, she states that she has read and understood the contents of her affidavit dated 19/07/2018. She further states that she has filed the said affidavit in view of the settlement arrived at between the parties. She further states that in view of the settlement between parties, 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 Arvind Anant Sawant is also personally present in Court. He is identified by the learned counsel Shri M N Dhamal. He is also identified by his PAN Card bearing No.BPKPS7415B. When put in the box and queried, he accepts the factum of settlement having taken place between him and the Respondent No.2.

7 Having regard to the Consent Terms filed by the parties before the Family Court, Mumbai, the affidavit dated 19/07/2018 filed by the Respondent No.2 and the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried, the same indicate that the parties have amicably resolved their dispute as a result of which the Respondent No.2 does not desire to proceed with the case in question.

8 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 factual background as above, no useful purpose would be served in keeping the proceedings pending.

9 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.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

Laxmikant
Gopal
Chandan

Digitally signed by
Laxmikant Gopal
Chandan

Date: 2018.07.27
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lgc