

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

CRIMINAL WRIT PETITION NO.2560 OF 2018

Lalit Vinod Jhawar and ors. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

Ms. Devika Deshmukh I/by D S Joshi for the Petitioners.
Mrs. A S Pai, Addl. PP for the Respondent/State.
Mr. Abhay Apte for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 20th JULY 2018

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being No.0233 of 2018 registered with Sangavi Police Station Pune on 11/05/2018 for the offences punishable under Sections 498(A), 406, 377, 323 and 504 read with 34 of the Indian Penal Code. The said FIR is on account of the marital discord between the Petitioner No.1 and the Respondent No.2 who are husband and wife.

2 It seems that the parties are also before the Family Court at Mumbai in Marriage Petition No.F-3874 of 2018 by which they seek divorce by mutual consent. In the said Marriage Petition, the parties have arrived at the Consent Terms covering various aspects. However, in the context of the relief sought in the present Writ petition, Paragraph 7(B)(II) of the said Consent

Terms is material and is reproduced herein under :-

“It is agreed between the Petitioners that on the filing of the petition for mutual consent and on depositing the above-mentioned amount i.e. Indian Rupee Eight Lakhs Sixty Four Thousand and Seventy One Only (INR 80,64,471/- only) in this Hon'ble Family Court; the Petitioner No.1 will file proceedings under section 482 Cr.PC for the Quashing of the above FIR. The Petitioner No.2 agrees and undertakes to co-operate with the filing of the necessary affidavits for the purposes of the quashing of the aforesaid FIR and by remaining personally present in the Hon'ble Bombay High Court. The Petitioners further state and undertake that there are no other cases pending between the Petitioners and/or their relatives, except the cases mentioned hereinabove. In case it is found that there are any cases, complaints, litigations pending between the Petitioners arising from the marital dispute between them, the same shall be withdrawn by the concerned Petitioner without any further cost.”

3 The Respondent No.2 i.e. the first informant has also filed an affidavit dated 20/07/2018 which is affirmed in this Court on 20/07/2018. In the said affidavit she has referred to the Marriage Petition filed by the parties for divorce by mutual consent as also she has referred to paragraph 7(B)(II) of the Consent Terms. However, paragraph 8 of the said affidavit is material and is re-produced herein under :-

“In view of the above, I consent to the quashing of the FIR and further agree to not to prosecute the Petitioner or his family members in respect of the above FIR in view of the amicable settlement arrived at between the parties.”

4 The Respondent No.2 – Niharika Lalit Jhavar is personally present in Court. She is identified by the learned counsel Shri Abhay Apte. She is also identified by her PAN Card bearing No.BGOPR2821K. When put in the box and queried, she states that she has read and understood the contents of her affidavit dated 20/07/2018. She further states that in view of the settlement between the parties, she is not desirous of proceeding with the FIR in question. She lastly states that she has filed the said affidavit of her own free will and volition.

5 The Petitioner No.1 – Lalit Vinod Jhavar is also personally present in Court. He is identified by the learned counsel Ms. Devika Deshmukh. He is also identified by his PAN card bearing NO.AHQPJ8971J. When put in the box and queried, he accepts the factum of the Consent Terms being filed between the parties in the Family Court evidencing the settlement between the parties. He further states that in view of the settlement, that the Respondent No.2 does not desire to proceed with the FIR in question.

6 Having regard to the Consent Terms which are comprised in the Marriage Petition dated 30/05/2018 (Exhibit B to the Petition, page 22), the affidavit 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 resolved their dispute amicably as a result of which the Respondent No.2 does not desire to proceed with the FIR in question.

7 In terms of the law laid down by 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, no useful purpose would be served in keeping the FIR in question pending.

8 The above Criminal Writ Petition is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a). The Petitioners to deposit costs of Rs.25,000/- with the Tata Memorial Hospital, Parel, Mumbai within six weeks from date. Receipt to be obtained and filed in the Registry of this Court. The Respondent No.2 also to deposit costs of Rs.10,000/- with the Tata Memorial Hospital, Parel, Mumbai within six weeks from date. Receipts to be obtained and filed in the Registry of this Court. 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: 2018.07.23
11:34:06 +0530

lgc