

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

CRIMINAL WRIT PETITION NO.2575 OF 2018

Mr. Ashutosh Dinanath Singh and ors. : Petitioners.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. Santosh H Chari for the Petitioners.
Mrs. S D Shinde, APP for the Respondent/State.
Mr. Nilesh Mumbhar for the Respondent No.2.

**CORAM : R. M. SAVANT &
PRAKASH D. NAIK, JJ.**
DATE : 26th JUNE 2018

P.C.

1 The above Writ Petition has been filed for quashing of the proceedings being CC No.2189/PW/2017. The said proceedings have arisen out of C.R. No.24 of 2016 registered with Malwani Police Station, Mumbai for the offences punishable under Sections 498-A, 420, 406 and 34 of the Indian Penal Code. The said FIR is the result of the marital discord between the Petitioner No.1 and the Respondent No.2 who are husband and wife. It is not necessary to delve further into facts.

2 The parties were before the Family Court in Petition No.F--- of 2017 which was a Petition for divorce by mutual consent. In the said proceedings the parties arrived at a settlement which was reduced into writing by way of Consent Terms dated 25/12/2017. In the context of the present Writ petition, Clause 7 of the said Consent Terms assumes importance and is

therefore reproduced herein under for the sake of ready reference :-

“After deposition of the aforesaid amount of Rs.12,50,000/- (Rupees Twelve Lacs Fifty Thousand only) by the Petitioner No.1 in this Hon'ble Court, the Petitioner No.1 shall file the Criminal Application in the Hon'ble High Court at his own costs for quashing of Court Case No.2189/PW/2017 pending before Court of Addl. Chief Metropolitan Magistrate's 24th Court at Borivali, Mumbai against the petitioner No.1, his parents and his two married sisters and the Petitioner No.2 agrees and undertakes to give her consent for the said quashing of proceeding.”

3 The Respondent No.2 has also filed an affidavit sworn before Shri S R Kadam, Notary, Government of India having his office at Charkop, Andheri (East), Mumbai 400 098. The said affidavit bears the notarial registration number 1216 dated 22/06/2018. In the context of the reliefs sought in the above Writ Petition it is stated thus in paragraph 5 :-

“In view of the above I humbly pray that this Hon'ble Court be pleased to allow the above Petition”

4 The Respondent No.2 is personally present in Court. She is identified by the learned counsel Shri Nilesh Kumbhar. She is also identified by her Aadhar Card bearing No.845609913454. The said Aadhar Card is in her maiden name Deepika Prabhakar Rai. When put in the box and queried, she states that she has read and understood the contents of the affidavit which is tendered today by her learned counsel. She states that she has filed the said affidavit in view of the settlement arrived at between the parties. She lastly states that she has filed the said affidavit of her own free will and volition.

5 The Petitioner No.1 is also personally present in Court. He is identified by the learned counsel Shri Santosh H Chari. He is also identified by PAN Card bearing No.CMIPS5411B. When put in the box and queried, he accepts the factum of the settlement between him and the Respondent No.2. He further states that it is in view of the settlement between the parties, the Respondent No.2 does not desire to proceed with the proceedings in question.

6 Having regard to the Consent Terms dated 25/12/2017 filed in the Family Court, the affidavit dated 22/06/2018 of the Respondent No.2, 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 settled the dispute as a result of which the Respondent No.2 does not desire to proceed with the proceedings in question.

7 A useful reference could be made 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, which would assist the parties in quashing of the proceedings in question.

8 The above Writ Petition is therefore required to be allowed and is accordingly allowed in terms of prayer clause (b). The above Writ Petition is accordingly disposed of.

9 The Petitioners to deposit costs of Rs.5000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry of this Court.

[PRAKASH D. NAIK, J]

[R.M.SAVANT, J]