

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2606 OF 2018**

Jhoy Roy

..Petitioner

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Nigel Quraishy i/b Mr. Nishant Patil for the Petitioner

Mr. Khushal Mor for the Respondent No.2

Mrs. P. P. Shinde APP for the Respondent State

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 22nd JUNE, 2018**

P.C.

1 Not on board. Mentioned.

2 The above Writ Petition has been filed for quashing of the FIR being C. R. No.50/2017 registered with the Powai Police Station for the offences punishable under Section 498A, 406, 323, 504 of the IPC. The said FIR is on account of the marital dispute between the Petitioner and the Respondent No.1 who are husband and wife.

3 It seems that the parties were before the Family Court in Marriage Petition No.3060 of 2017 in which proceeding the parties filed Consent Terms

as a result of which they agreed to get their marriage dissolved by mutual consent wherein by an order passed on 18-6-2018 by the Family Court No.5, a Consent Decree came to be passed in terms of the Consent Terms as a result of which the Petitioner and the Respondent No.1 have been divorced by mutual consent.

4 The Respondent No.2 has also filed an affidavit dated 18-12-2017. The said affidavit refers to the settlement arrived at between the parties. In paragraph 8 of the said affidavit it is stated thus :

8. I say that all the contents mentioned hereinabove are true and correct to the best of my knowledge and belief, and I am this affidavit in support of the Application of the Applicants herein to quash the FIR registered vide C. R. No.50/17 of the Powai Station, for the offences punishable under Sec. 498A, 406 of the Indian Penal Code, 1860 against the Applicant.

5 The Respondent No.2 Jyotishree Gayaka is personally present in Court. She is identified by the Learned Counsel Mr. Kushal Mor. She is also identified by her Adhar Card bearing No.466413435080 wherein her address is of Mira Road (E), Thane, Maharashtra. When put in the box and queried she accepts the factum of the affidavit being filed by her in the above Petition. She further states that she has read and understood the contents of the said affidavit. She further states that she and the Petitioner have now been divorced by a decree passed by mutual consent. She lastly states that she has

filed the affidavit of her own free will and volition.

6 The Petitioner is not personally present in court as he has to report for work in Gurugram, Haryana. Since the Learned Counsel for the parties are ad-idem as regards passing of the consent decree the presence of the Petitioner is dispensed with.

7 Having regard to the consent decree passed by the Family Court in terms of the Consent Terms arrived at between parties as a result of which a decree of divorce has been passed by the Family Court, affidavit filed by the Respondent No.2 and the statement made by the Respondent No.2 when put in the box and queried, the same lead to a conclusion that the parties have settled their dispute as a result of which the Respondent No.2 does not desire to proceed with the FIR in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr**¹ and **Narinder Singh & ors v/s. State of Punjab & Anr**², 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). The above Criminal Writ Petition is accordingly disposed of.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

8 The Petitioner to deposit costs of Rs.15,000/- and the Respondent No.2 to deposit Rs. 5000/-, totalling to Rs.20,000/-, with the Tata Memorial Hospital, Parel Mumbai, within 6 weeks from date. Receipts to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]