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

CRIMINAL WRIT PETITION NO.2741 OF 2018

Sameer Uday Sakharkar and Ors.

...Petitioners

Versus

Shalaka Arvind Shirsekar
(previously known as Shalaka Sameer
Sakharkar) and Anr.

...Respondents

Mr.Satyavrat Joshi, for the Petitioners.

Ms.Usha H. Dedhia, for the Respondent No.1.

Mr.Avinash Kamkhedkar, A.P.P for the Respondent-State.

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

DATE : 14th AUGUST, 2018

P.C. :

1. Leave to amend is granted so as to correct the C.R. number appearing in prayer clause (a). Amendment to be carried out forthwith.

2. The above Petition has been filed for quashing of the

proceedings being C.C. No.1612/PW/2014, pending on the file of the learned Metropolitan Magistrate, Kurla, Mumbai. The said proceedings have arisen out of the C.R. bearing No.187 of 2014 registered with Matunga Police Station, Mumbai, for the offences punishable u/s 498(A), 406, 506, 504 and 34 of the Indian Penal Code.

3. The said C.R is a consequence of the estrangement between the Petitioner No.1 and the Respondent No.1, who were husband and wife at the relevant time. The parties it seems were also before the Family Court at Bandra, Mumbai, in Petition No.A-1900 of 2015, which was filed by the Respondent No.1 for divorce. In the said Marriage Petition, the parties arrived at a settlement which was reduced into writing by way of Consent Terms dated 8th June, 2017. In terms of the Consent Terms, the parties agreed to seek divorce by mutual consent. The Marriage Petition thereafter has been decreed by the learned Judge of the Family Court Mumbai at Bandra, by Judgment and Order dated 19th July, 2017, as a result of which the marriage between the Petitioner No.1 and the Respondent No.1 has been dissolved by a Decree of divorce passed by mutual consent.

4. The Respondent No.1 - Shalaka Arvind Shirsekar (maiden name Shalaka Arvind Shirsekar) has filed an affidavit dated 11th August, 2018 affirmed before Mr.B.R.Dube, Notary Government of India, having his office at 7/106, Lady Ratan Complex, D.S.Marg, Worli, Mumbai – 400 018 and bears the Notarial Registration No. 84 at Serial No.53054 dated 11th August, 2018. In the context of the relief sought in the above Petition, paragraph 5 of the said affidavit is material and is reproduced herein under:-

“5. I say that, in light of the amicable settlement which has been arrived at, I have no objection if the Criminal Case bearing C.C.No.1612/PW/2014 which is pending on the file of the Learned Metropolitan Magistrate's 30th Court, at Kurla, Mumbai arising out of C.R.No.187 of 2014 registered with Matunga Police Station, Mumbai, for the offence 498-A, 406, 506, 504 read with 34 of Indian Penal Code be quashed and set aside against Petitioner Nos.1 to 4.”

5. The Respondent No.1 is personally present in Court. She is identified by the learned Counsel Ms.Usha Dedhia. She is also identified by her Aadhaar Card bearing No. 3554 5490 1534, which is her maiden

name Shalaka Arvind Shirsekar. When put in the box and queried, she states that she has read and understood the contents of her affidavit. She further states that she has filed the affidavit in view of the settlement between the parties, as a result of which a decree of divorce by mutual consent has been obtained. She lastly states that she has filed the said affidavit of her own free will and volition.

6. The Petitioner No.1 - Sameer Uday Sakharkar is also personally present in Court. He is identified by the learned Counsel Mr.Satyavrat Joshi. He is also identified by his Aadhaar Card Card bearing No. 7393 5179 9935. When put in the box and queried, he accepts the factum of settlement arrived at between the parties, as a result of which the parties have obtained divorce by mutual consent.

7. Hence, having regard to the decree of divorce obtained by the parties which was by mutual consent, the affidavit filed by the Respondent No.1 and the statements made by the Respondent No.1 and the Petitioner No.1 when put in the box and queried, the same leads to a conclusion that the parties have amicably settled their dispute, as a result of which, the

Respondent No.1 i.e. the First Informant is not desirous of proceeding with the case in question.

8. In the said context a useful reference could be made to the judgments of the Apex Court in the matter of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which would lead to a conclusion that no useful purpose would be served by keeping the proceedings pending before the Trial Court.

9. The above Writ Petition is therefore required to be allowed and is accordingly allowed in terms of prayer clauses (a) and (b).

10. The above Criminal Writ Petition is accordingly disposed of.

11. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Petitioners to deposit costs of Rs.10,000/- with the National Association for the Blind, Worli, Mumbai, within six weeks from date.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

The Respondent No.1 to also deposit costs of Rs.10,000/- with the National Association for the Blind, Worli, Mumbai, within six weeks from date. Receipts to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.