

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 2838 OF 2018**

Pramila Divyesh Patel & Anr.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Mahesh Vaswani a/w Ms. Dharini Nagda and Ms. Sophiya Hasan i/b  
Mr. Rajesh More for the Petitioners

Mr. V. B. Konde-Deshmukh, A.P.P for the Respondent No.1-State

Mr. Jagdish Shetty for the Respondent No. 2

***CORAM : R. M. SAVANT &  
REVATI MOHITE DERE, JJ.  
FRIDAY, 10<sup>th</sup> AUGUST 2018***

**P.C. :**

1           The above Writ Petition has been filed for quashing of the FIR  
in C.R. No. 167 of 2012 registered with the Borivali Police Station,  
Mumbai, on 23<sup>rd</sup> April 2012 for the offences punishable under Sections 498  
(A), 420, 406 and 34 of the Indian Penal Code as also quashing of the  
proceedings arising therefrom being CC No. 1585/PW/2012 pending on the  
file of the learned Additional Chief Metropolitan Magistrate, 26<sup>th</sup> Court,  
Borivali, Mumbai.

2           The said FIR is a consequence of the marital discord between the Petitioner No. 1 and the Petitioner No. 2, who are husband and wife. However, insofar as the quashing of the FIR and the proceedings arising therefrom are concerned, the above Petition is a joint Petition filed by the first informant i.e. the Petitioner No. 1 and the accused i.e. her husband. It is averred in Paragraph 5(h) and Paragraph 7(J) to the following effect :

*“5(h)           The Petitioner No. 1 and Petitioner No. 2 have agreed to have amicably resolve their differences in respect of the subject impugned FIR and the resultant proceedings and the draft of the said Consent Terms is annexed hereto as EXHIBIT -”F”.*

*7(J)           The Petitioner No. 1 has also no objection to quashing of her 23/04/2012 vide C.R. No. 167/2012 u/s. 498 (A), 420, 406 & 34 of IPC registered at Borivali Police Station, Borivali West against the Petitioner No. 2, and in such circumstances this Hon'ble Court is empowered to quash these proceedings.”*

Hence, the averments as comprised in the said Paragraph, unequivocally indicate that the above Petition is a joint Petition filed by the first informant and her accused husband for quashing of the proceedings in question, which have arisen out of the FIR filed by the Petitioner No. 1. The undercurrent to the filing of the said FIR appears to be the dispute in

respect of a tenement being tenement No. 3/2, Gayatri Niwas, Bhandup, Mumbai, in a SRA Scheme. Insofar as the said SRA Scheme is concerned, it appears that in the Annexure-II, which was prepared, the name of the Petitioner No. 1 and her father-in-law Ramanbhai Poonamchand Patel was appearing. The dispute in respect of the said room has been amicably resolved. The mother-in-law of the Petitioner No. 1 Bhavnaben Ramanbhai Patel and the Petitioner No. 2-Divyesh Ramanbhai Patel have executed an affidavit dated 11<sup>th</sup> June 2018, giving up their claim in respect of the said tenement, as the father-in-law of the Petitioner No. 1 i.e. the husband of Bhavnaben and the father of Divyesh, has expired. To the above Petition, are also annexed the draft Consent Terms in which a reference has been made to the instant proceedings in Paragraph 1 at page 127. It is not necessary to further dilate on facts in view of the settlement which has been arrived at between the parties.

3           The Petitioner No. 1-Pramila Divyesh Patel is personally present in Court. She is identified by the learned counsel Mr. Mahesh Vaswani i/b Mr. Rajesh More. She is also identified by her Aadhar Card bearing No. 707355612225. When put in the box and queried, she accepts

the factum of settlement between the parties, as a result of which, she is not desirous of proceeding with the case in question.

4           The Petitioner No. 2- Divyesh Ramanbhai Patel is personally present in Court. He is identified by the learned counsel Mr. Mahesh Vaswani i/b Mr. Rajesh More. He is also identified by his Aadhar Card No. 411870747460. When put in the box and queried, he accepts the factum of the settlement having been arrived at between the parties.

5           Hence, the filing of the above Petition which can be said to be a joint effort of the Petitioner No. 1 i.e. the first informant and the Petitioner No. 2 who is the accused-husband, as also the statements made by the Petitioner No. 1 and the Petitioner No. 2-husband Divyesh when put in the box and queried, as also the affidavit dated 11<sup>th</sup> June 2018 of Bhavana Ramanbhai Patel i.e. the Respondent No. 2 herein and the Petitioner No. 2 relinquishing the right in the room in question, the same unequivocally indicate that the parties have resolved their dispute, as a result of which, Petitioner No. 1 is not desirous of proceeding with the case in question.

6           In the factual backdrop as above, in our view, no useful purpose would be served in continuing with the proceedings. 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.*<sup>1</sup> and *Narinder Singh & Ors. vs. State of Punjab & Anr.*<sup>2</sup>, which would assist in the quashing of the FIR in question.

7           The above Writ Petition is, therefore, required to be allowed and is accordingly allowed in terms of prayer clause (A).

8           In the facts and circumstances of the case, the Petitioners to deposit costs of Rs.20,000/- in total with the Society for the Rehabilitation of Crippled Children, Haji Ali, Worli, within six weeks from date. Receipt to be obtained and filed in the Registry.

**REVATI MOHITE DERE, J.**

**R. M. SAVANT, J.**

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1 (2012) 10 SCC 303

2 2014 AIR SCW 2065