

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2683 OF 2017**

Milind Ramesh Mungaji & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

**WITH
CRIMINAL WRIT PETITION NO.2684 OF 2017**

Milind Ramesh Mungaji & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. U. B. Nighot for the Petitioners

Respondent No.2 Mrs. Yogini Mungaji present

Mr. K. V. Saste Addl PP for the Respondent State in Writ Petition No.2683 of 2017

Mr. V. B. KondeDeshmukh for the Respondent State in Writ Petition No.2684 of 2017

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL, JJ**

DATE : 10th APRIL, 2018

P.C.

1 At the outset, the Learned Counsel for the Petitioner in Writ Petition No.2683 of 2017 seeks leave to amend prayer clause (a) so as to correct the case number. Leave granted. Amendment to be carried out forthwith.

2 By the above Writ Petition No.2683 of 2017 the Petitioner seeks quashing of the Regular Criminal Case No.923 of 2014 pending before the Learned JMFC Vashi. The said case is arising out of FIR No.I-22 of 2014 filed

by the Respondent No.2 registered with the Rabale Police Station for the offences punishable under Section 498-A, 406 r/w 34 of IPC.

In so far as Writ Petition No.2684 of 2017 is concerned, the same is filed for quashing of the proceedings being Regular Criminal Case No.71 of 2015 pending before the Learned JMFC Vashi arising out of the FIR No.77 of 2014 also filed by the Respondent No.2 with the Rabale Police Station for the offence punishable under Section 420, 468 of IPC and Section 3, 66(1(b) and 43 of Information Technology Act.

2 The said FIRs have arisen out of the matrimonial disputes between the Petitioner No.1 and the Respondent No.2 who are husband and wife. It is not necessary to dilate further on the factual aspects in view of the fact that the parties have filed Consent Terms in the Court of the Learned Civil Judge Senior Division, Alibag in HMP No.168 of 2017. By the said Consent Terms the parties had agreed for converting the said HMP which was originally filed for divorce under Section 13(1)(ib) of the Hindu Marriage Act, to a Petition for divorce by mutual consent under Section 13(B) of the said Act. The Petition was thereafter converted to a Petition for divorce by mutual consent and a decree came to be passed by the 2nd Joint Civil Judge Senior Division, Alibag on 4-11-2017. In so far as the present proceedings i.e. the proceedings which have been referred to in the earlier part of this order clause (3) of the said Consent Terms covers the same. It is provided in the said clause that the

first informant i.e. the Respondent No.2 would co-operate in getting the said proceedings quashed.

3 The Respondent No.2 Mrs. Yogini Milind Mungaji is personally present in Court. She is identified by her husband Mr. Milind Mungaji who is also personally present in Court. She is also identified by her Pan Card No.BAIPM9989H. When put in the box and queried she accepts the factum of the Consent Terms having been arrived at in the family Court. She further states that in view of the Consent Terms she is not desirous of proceeding with the cases in question which have been arisen out of the FIRs which have been lodged by her.

4 The Petitioner No.1 Mr. Milind Mungaji is also personally present in Court. He is identified by the Learned Counsel Mr. Nighot. He is also identified by his Adhar Card bearing No.399537131944. When put in the box and queried he states that a settlement has been arrived at between the parties as a result of which the Consent Terms were filed in the Court of 2nd Joint Civil Judge Senior Division, Alibag. It is on account of the said Consent Terms that the Respondent No.2 is not desirous of proceeding with the cases in question.

5 Having regard to the Consent Terms dated 18-3-2017 and especially clause (3) thereof and having regard to the statements made by the

Respondent No.2 i.e. the first informant and the Petitioner No.1 when put in the box and queried, the same lead to an unequivocal conclusion that the parties have settled the dispute as a consequence of which the Respondent No.2 does not desire to proceed with the cases 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 Petitions are required to be allowed and are accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petitions are accordingly disposed of.

6 The Petitioner No.1 and the Respondent No.2 to deposit costs of Rs.10,000/- each i.e. totally Rs.20,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065