

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 800 OF 2018**

**Mrs. Kalpana Vidyadhar Pednekar & Ors
Vs.**

..Applicants

The State of Maharashtra & Anr

..Respondents

Mr. Viral K. Rathod for the Applicants

Mr. V. B. KondeDeshmukh Addl PP for the Respondent State

Ms R. M. Khairnar for the Respondent No.2

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

DATE : 3rd AUGUST, 2018

P.C.

1 The above Application has been filed for quashing of the proceedings being Case No.PW/936/2018 arising out of C. R. No.309 of 2017 registered with the Shahu Nagar Police Station for the offence punishable under Section 498-A, 406, 504, 323 r/w Section 34 of the IPC. The proceedings are pending before the Learned Metropolitan Magistrate, 12 th Court, Bandra, Mumbai. The parties it seems were also before the Family court in Marriage Petition being No.F-436 of 2018 which Petition is filed for mutual divorce under Section 13B of the Hindu Marriage Act. The decree of divorce which is to be obtained by mutual consent by the parties is circumscribed by the terms and conditions which are appearing in the said Divorce Petition. It is not necessary to refer to the said terms and conditions for the purposes of the instant application.

2 The Respondent No.2 has filed an affidavit bearing today's date and affirmed in this Court. The said affidavit refers to the filing of the Divorce Petition adverted in the earlier paragraph of the instant order as also adverts to the present case filed by her under Section 498A of the IPC. In the context of the present Application, paragraph 5 of the said affidavit is material and is reproduced hereinunder:

5 I say that I am voluntarily and without any force, coercion or undue influence I am filing this Affidavit in reply to the Criminal Application No.800 of 2018 under section 482 of Cr. P. C. seeking quashing of the FIR, chargesheet and criminal proceedings bearing Police Case No.936/PW/2018 against the Applicants and have no objection if the FIR chargesheet and criminal proceedings bearing Police Case No.936/PW/2018 are quashed.

3 The Respondent No.2 Swati Omkar Pednekar is personally present in court. She is identified by the Learned Counsel Ms Khairnar. She is also identified by her Pan Card bearing No.CJLPS3745Q. The said Pan Card is in her maiden name i.e. Swati Shirodkar. When put in the box and queried she states that the affidavit tendered to day is hers and she has read and understood the contents of the said affidavit. She further states that she has filed the said affidavit in view of the settlement between the parties. She further states that she is not desirous of proceeding with the case in question. She lastly states that she has filed the said affidavit of her own free will and volition.

4 The Applicant No.3- husband Omkar Pednekar is not in a position to remain present in this Court as he is working in Dubai. However, the Applicant Nos.1 and 2 i.e. the parents of the Applicant No.3 are present in Court.

 The Applicant No.2 Mr. Vidyadhar Pednekar is personally present in Court. He is identified by the Learned Counsel Mr. Rathod. He is also identified by his Adhar Card bearing No.577195679515. When put in the box and queried he accepts the factum of the settlement having taken place between them i.e. the Applicants and the Respondent No.2, as a result of which the Respondent No.2 is not desirous of proceeding with the case in question.

 The Applicant No.1 Mrs. Kalpana Pednekar is personally present in Court. She is identified by the Learned Counsel Mr. Rathod. She is also identified by her Adhar Card bearing No.863777474383. When put in the box and queried she states likewise.

5 Hence the filing of the Petition for divorce by mutual consent, affidavit filed by the Respondent No.2, statements made by the Respondent No.2 and the parents of the Applicant No.3 i.e. Applicant Nos.1 and 2 when put in the box and queried, the same indicate that the parties have settled the dispute as a result of which the Respondent No.2 is not desirous of proceeding

with the case in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the charge sheet would stand quashed and set aside. The above Criminal Application is accordingly disposed of.

6 The Applicants to deposit costs of Rs.10,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

7 The Respondent No.2 to deposit costs of Rs.5,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

8 The Learned Counsel Ms Khairnar undertakes to file vakalatnama on behalf of the Respondent No.2 within one week from date. Undertaking accepted.

Meera
Mahesh
Jadhav

Digitally signed by
Meera Mahesh Jadhav
Date: 2018.08.06
11:15:09 +0530

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065