

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

CRIMINAL WRIT PETITION NO.3111 OF 2017

Kewal Jagdish Patil & Ors.	 Petitioners
versus	
State of Maharashtra & Anr.	... Respondents

.....

- Mr.Prasad D. Borkar, Advocate for the Petitioners.
- Mr.Anil Bhaskar Bhole i/b. Mr.Dhiraj B. Bansode, for Respondent No.2.
- Mr.K.V. Saste, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE : 26th FEBRUARY, 2018.

P.C. :

1. The above Writ Petition has been filed for quashing of the proceedings being C.C. No.1203/PW/2016 arising out of C.R.No.220/15 registered with Chembur Police Station, for the offences punishable u/s 498-A, 406 r/w 34 of the Indian Penal Code. The said FIR seems to have arisen out of matrimonial dispute between the Petitioner No.1 and the Respondent No.2, who are husband and wife. The Respondent No.2 i.e. the first informant has now filed an affidavit dated 03/11/2017. In the context of the relief sought in the above Writ Petition, paragraph No.5 of the said affidavit is material and is reproduced hereinafter;

5) *I say that in view of what is stated herein above, I am no longer interested in proceeding with the complaint and I withdraw my complaint no.1203/PW/2016 arising out of Crime No.220 of 2015 registered with Respondent No.1, Chembur Police Station and now pending before the Ld. Additional Chief Metropolitan Magistrate's 11th Court at Kurla, Mumbai and the same be treated as withdrawn.*

2. It seems that the parties were before the Family Court in Petition A-1988/15, which was filed by the Respondent No.2 for divorce, which was converted to a Petition for divorce by mutual consent u/s 13-B of the Hindu Marriage Act. In the context of the present Petition clause Nos.7 and 8 of the said Consent Terms are material and are reproduced hereinunder;

“7. *The Respondent shall file an application in the Hon'ble High Court to quash the criminal case CC/1203/PW/2016 as filed by Petitioner and pending in the Hon'ble Court 11th of M.M. Court at Kula. The Petitioner shall give her no objection in quashing the aforesaid criminal case.*

8. *The Petitioner and Respondent shall co-operate with each other in withdrawing and/or quashing the aforesaid criminal cases.”*

3. The Respondent No.2 is personally present in the Court. She is identified by the learned Counsel Mr.Anil Bhole holding for the Advocate on record Mr.Dhiraj Bansode. She is also identified by her Aadhar Card bearing No.8679 0898 6623 which is in her maiden name i.e. Leena Kisan Thakur. When put in the box and queried, she states that she has read the affidavit dated 03/11/2017, which is annexed to the above Petition at page No.29. She has further stated that she has understood the contents of the said affidavit and she has signed it out of her own free will and volition. She also accepted that the Consent Terms have been arrived at between the parties in the Family Court.

4. The Petitioner No.1 Kewal Jagdish Patil is also personally present in the Court. He is identified by the learned Counsel Mr.Prasad Borkar. He is also identified by his PAN Card bearing No.ALEPP4759L. When put in the box and queried he

states that the Consent Terms have been arrived at between the parties in the Family Court. He further stated that he has also read the affidavit filed by the Respondent No.2 and that the Respondent No.2 is not desirous to proceed with the case in question in view of the settlement arrived at between the parties. The Petitioner No.4 who is the sister of Kewal is also personally present in the Court. She is identified by the learned Counsel Mr.Prasad Borkar and also by her PAN Card bearing No. APWPP7839K. When put in the box and queried, she reiterates what has been stated by her brother i.e. the Petitioner No.1.

5. The Petitioner Nos.2 and 3 being the parents of the Petitioner No.1 are not present in view of their advanced age. Their presence is accordingly excused in view of the presence of Petitioner Nos.1 and 4.

6. On reading of the affidavit filed by the Respondent No.2, as also the Consent Terms filed in the Family Court dated 05/05/2017, as also the statements made by the Respondent No.2, the Petitioner No.1 and the Petitioner No.4, we have come

to a conclusion that the parties have amicably settled their dispute. As a result of which the Respondent No.2 does not desire to continue with the proceedings.

7. Having regard to the judgments of the Apex Court in the matter of Gian Singh V/s. State of Punjab & Anr. Reported in (2012) 10 SCC 303 and Narinder Singh & Ors. V/s. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the proceedings pending.
8. In the facts and circumstances of the case, the Writ Petition is allowed in terms of prayer clause (a) & (b). The Petitioner No.1 to deposit costs of Rs.10,000/- with the Maharashtra State Legal Aid Services Authority, within six weeks from date, receipt of which to be obtained and filed in the Registry.
9. The above Criminal Writ Petition is accordingly disposed of.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)