

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

CRIMINAL WRIT PETITION NO.3262 OF 2018

Praphulla Raghunath Kalyankar and Ors. ...Petitioners
Versus
State of Maharashtra and Anr. ...Respondents

Ms.Rukmini Khairnar, for the Petitioners.

Mr.V.B.Konde-Deshmukh, A.P.P for the Respondent-State.

Ms.Nidhi N. Shah, for the Respondent No.2.

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

DATE : 14th AUGUST, 2018

P.C. :

Mentioned out of turn.

1. The above Writ Petition has been filed for quashing of the F.I.R. being No.I-158 of 2017 registered with the Upanagar Police Station, Nashik, for the offences punishable under Sections 498A, 406, 504, 506 and 34 of the Indian Penal Code.

2. The said FIR is a consequence of the marital discord between

the Petitioner No.1 and the Respondent No.2, who are husband and wife. It is not necessary to dilate further on facts. It seems that the parties are before the Family Court, Nashik in Petition No.240 of 2018. The said Petition was originally filed by the Respondent No.2 seeking divorce on the ground of cruelty i.e. under Section 13(1)(ia) of the Hindu Marriage Act. The parties in the said proceedings have reached a settlement, as a consequence of which they have filed a joint application in the Family Court seeking divorce by mutual consent under Section 13(B) of the Hindu Marriage Act. The said proceedings are awaiting final orders to be passed.

3. The Respondent No.2 has filed an affidavit in the above Petition. In the context of the relief sought in the above Petition, paragraph 8 of the said affidavit is material and is reproduced herein under:-

“8. I hereby confirm that, whatever stated in the above Application and whatever stated herein above is true and correct to the best of my knowledge and belief. I confirm that, I have no claim pending against the Applicant. All the issues and misunderstandings between me and the Applicant have been resolved amicably. Hence, I am filing this affidavit supporting the Application for quashing of criminal proceedings arising

out of C.R.No.158 of 2017 registered with Upanagar police Station and humbly pray to allow the said Application, in the interest of justice.”

4. The Respondent No.2-Pooja Praphulla Kalyankar is personally present in Court. She is identified by the learned Counsel Ms.Nidhi Shah. She is also identified by her Aadhaar Card bearing No. 4238 2437 5353 which is in her maiden name Pooja Vasant Bidwaik. When put in the box and queried, she accepts the factum of the Application being filed before the Family Court for divorce by mutual consent. She further states that she has read and understood the contents of her affidavit dated 26th July, 2018 affirmed before Mr.Uday B. Shinde, Advocate and Notary, having his office at A-216, Meghdoot Shopping Centre, C.B.S., Nashik and bears the Notarial Registration No.7715 of 2018 dated 26th July, 2018. She further states that she has filed the affidavit in view of the settlement between the parties. She lastly states that she has filed the said affidavit of her own free will and volition.

5. The Petitioner No.1 -Praphulla Raghunath Kalyankar is also personally present in Court. He is identified by the learned Counsel

Ms.Rukmini Khairnar. He is also identified by Election Identity Card bearing No. MVX1061936. When put in the box and queried, he accepts the factum of settlement arrived at between the parties, as a result of which, the Respondent No.2 is not desirous of proceeding with the FIR in question.

6. Having regard to the joint application filed before the Family Court which have been adverted to in the earlier part of the order, the affidavit filed by the Respondent No.2 dated 26th July, 2018 and the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried, the same unequivocally indicate that the parties have settled the dispute, as a result of which the Respondent No.2 is not desirous of proceeding with the FIR in question.

7. In the aforesaid factual background, 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 assist the parties in the quashing of the FIR

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

in question.

8. The above Criminal Writ Petition is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a).

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

10. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Petitioner No.1 to deposit costs of Rs.10,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.