

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.840 OF 2017

Ramesh Rajendra Karanath & Ors.] ... Applicants

Versus

The State of Maharashtra & Anr.] ... Respondents

Ms. Urvi H. Dave for Applicants.

Mr. R. M. Pethe, APP for State – Respondent No.1.

Ms. Trupti Bharadi for Respondent No.2.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE :- 15 MARCH, 2018

P. C. :-

1. Leave to amend so as to join the first informant as the party Respondent to the above Criminal Application is granted. Amendment to be carried out forthwith.

2. Learned Counsel Ms. Trupti Bharadi states that Vakalatnama would be filed within one week from date.

3. The above Criminal Application has been filed for quashing of C.C.No.936/PW/2014 pending in the Court of the learned Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The said case has arisen out of the registration of FIR bearing C.R.No.416 of 2013 registered with the Dahisar Police Station, Mumbai, for the offences punishable under Sections 498A and 420 read with Section 34 of the IPC. The said FIR has arisen out of the matrimonial disputes between the parties. The first informant i.e. the Respondent No.2 though not party to the Petition, had affirmed an Affidavit dated 05/08/2017 in this Court in support of the prayer for quashing of the proceedings. It appears that the parties were before the Family Court, Thane, in Petition No.A-89 of 2014 in which Petition, the parties have arrived at a settlement which has been reduced into writing by way of Consent Terms dated 18/02/2017 before the Marriage Councillor, Family Court, Thane. In terms of Clause 7 of the Consent Terms, the Respondent No.2 i.e. the wife has agreed to take efforts to put an end to the criminal case filed under Section 498A of the IPC and which is pending in the Borivali Court, Mumbai.

4. By an order passed today, the first informant was directed to be impleaded as a party Respondent to the above Writ Petition which amendment has accordingly been carried out by the learned Counsel for the Applicants. The Respondent No.2, post being joined as a party to the above Criminal Application, has filed an Affidavit bearing today's date i.e. 15/03/2018 and sworn in this Court. In the context of the relief sought in the above Criminal Application, para 5 of the said Affidavit is material and is reproduced hereinunder.

“5. I say that I have received the papers and I have gone through the Memo of the Petition. I am well aware of the facts and circumstances of the case and without any undue influence or pressure I hereby with my free will and say that I do not have any objections if the prayers made in the Criminal Application No.840 of 2017 filed by the Petitioner are made absolute. I further pray that no cost may be imposed on the parties.”

Hence, by the averments made in para 5, the Respondent No.2 has given her no objection to the prayers in the above Criminal Application being made absolute. The Respondent No.2 is personally present in Court. She is identified by learned Counsel Ms. Trupti Bharadi. She is also identified by her PAN Card bearing No.BCWPS2399F which is in her maiden name Aarti Krishna Swami. When put in the box and queried, she states that she has read the

Consent Terms which were filed in the Family Court and that the contents of the Consent Terms are acceptable to her and that she has signed the said Consent Terms of her own free will and volition. She further states that the Affidavit bearing today's date which has been tendered by learned Counsel Ms. Trupti Bharadi has been affirmed by her and that she has read and understood the contents of the said Affidavit and that she has signed the said Affidavit of her own free will and volition. The Petitioner No.1 Ramesh Karanath is also personally present in Court. He is identified by learned Counsel Ms. Urvi Dave. He is also identified by his PAN Card bearing No.AJXPK7660G. When put in the box and queried, he accepts the factum of the parties having filed the Consent Terms as a consequence of which the Respondent No.2 does not desire to prosecute the proceedings arising out of the FIR lodged by her.

5. Having regard to the Consent Terms filed in the Family Court, the Affidavit of the Respondent No.2 as also the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried and having regard to the Judgments of the Apex Court in the cases of **Gian Singh Vs. State of Punjab & Anr.** reported

in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065, there is no impediment in allowing the above Criminal Application. No useful purpose would therefore be served by keeping the above Criminal Application pending. The Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a). The proceeding in question i.e. C.C.No.936/PW/2014 would accordingly stand quashed and set aside.

6. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Applicant No.1 deposit costs of Rs.5,000/- with the Kirtikar Law Library, High Court, Mumbai, within six weeks from date. Receipt to be obtained and filed in the Registry.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)