

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3555 OF 2017**

Karan Kapoor and ors. : Petitioners.
Versus
The State of Maharashtra and anr. : Respondents.

**Mr. Pankaj Sutar a/w Mr. Rajeshwar N I/by Jayakar and Partners for the
Petitioners.**

Mr. K V Saste, Addl. PP for the Respondent/State.

Ms. Amal Patankar for the Respondent No.2.

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

DATE : 03rd AUGUST 2018

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being No.C.R. No.I-256 of 2015 registered with Kasarwadwali Police Station, Thane on 14/10/2015 for the offences punishable under Sections 498A, 406, 506 (2), 323, 504, r/w 34 of the Indian Penal Code. The said FIR is arising out of the matrimonial dispute between the Petitioner No.1 and the Respondent No.2 herein who at the relevant time were husband and wife.

2 The parties were also before the Family Court, Saket, New Delhi in the Marriage Petition being HMA No.503 of 2017. In the said Marriage Petition the parties arrived at a settlement which was reduced into writing by way of Consent Terms dated 17/10/2016. In so far as the present Writ Petition is concerned, paragraph 27 of the said Consent Terms is relevant where a reference has been made to the instant FIR. The said paragraph 27 is

reproduced herein under for the sake of ready reference:-

“The Petitioner Nos.1 and 2 further truthfully and honestly undertake to execute the Consent Terms whilst the grant of Decree of Divorce with all the earnest and sincere efforts as are pledged to be undertaken by the Petitioner vide the present Consent Terms for its enforcement. Such efforts shall inter alia include, filing of Petition for quashing of FIR number 1256/2015 dated 14/10/2015 before the Hon'ble High Court of Judicature at Bombay, application for withdrawal of the Domestic Violence Complaint filed before the appropriate Magistrates' Court, withdrawal of criminal complaints filed by Petitioner No.1 against Petitioner No.2 immediately in order to execute the Consent Terms.”

3 The parties have agreed to obtain divorce by mutual consent. The learned counsel for the parties have tendered the judgment and order dated 11/01/2018 passed by the learned Judge of the Family Court, South East, Saket, New Delhi, by which judgment and order the Petition for divorce filed by the Petitioner No.1 came to be disposed of by passing a decree for divorce by mutual consent. Hence the marriage between the Petitioner No.1 and the Respondent No.2 herein now stands dissolved.

4 The Respondent No.2 – Suchi Karan Kapoor has filed an affidavit dated 08/07/2017 and affirmed before S. M. N. Naqvi, Notary, Government of India, Mumbai & Thane Dist. Which bears notarial registration No.232 at Sr. No.722 on page No.66 dated 08/07/2017. Paragraph 17 of the said affidavit is material and is reproduced herein under :-

“I state that I have no objection to the quashing of the First Information Report (FIR) at C.R. No.I-256 of 2015 dated 14.10.2015 registered at the Kasarvadwali, Thane, Police Station, under Sections 498A, 406, 506 (2), 323, 504 r/w 34 of the Indian Penal Code, 1860 against Mr. Karan Kapoor, Mrs. Zoya Kapoor and Mr. Virendra Kapoor by the Hon'ble Bombay High Court.”

5 The Respondent No.2 has also referred to the Consent Terms in paragraph 5 of the said affidavit. The said affidavit also refers to the terms and conditions of the settlement which we are really not concerned with in the present Writ Petition which has been filed for quashing of the FIR in question.

6 The Respondent No.2 – Suchi Karan Kapoor is also personally present in Court. She is identified by the learned counsel Ms. Amal Patankar. She is also identified by her Aadhar Card bearing No.373270011615. The addressed mentioned in the said Aadhar Card is :- 23-24, Row House, Neelkanth Greens, Tikujiniwadi Road, Chitlasar Manpada, Thane West, Thane. When put in the box and queried, she states that she has read the affidavit which has been tendered by her learned counsel. She further states that she has 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 FIR in question. She lastly states that she has filed the said affidavit of her own free will and volition.

7 The Petitioner No.1 Karan Kapoor is also personally present in Court. He is identified by the learned counsel Shri Pankaj Suatar I/by Jayakar & Partners. He is also identified by his driving licence bearing No.P03122001293097 issued on 11/02/2004 and valid till 03/12/2021. When put in the box and queried, he accepts the factum of the settlement between the parties as result of which the Respondent No.2 is not desirous of proceeding with the FIR in question.

8 Having regard to the Consent Terms filed by the parties in the Family Court, New Delhi, the decree of divorce by mutual consent granted by the Family Court on 11/01/2018, the affidavit dated 08/07/2018 filed by the Respondent No.2 and the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried, the same indicate that the parties have settled their dispute as a result of which the Respondent No.2 is not desirous of proceeding with the FIR in question.

9 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, no useful purpose would be served in keeping the proceedings pending.

10 The above Criminal Writ Petition is required to be allowed and is

accordingly allowed and made absolute in terms of prayer clause 7(i). The above Criminal Writ Petition is accordingly disposed of.

11 The learned counsel for the Petitioners Shri Pankaj Sutar hands over two Demand Drafts of Rs.Eight Lakhs and Rs.Seven Lakhs respectively making the amount of Rs.Fifteen Lakhs which is the remainder of the amount as final alimony in terms of the Consent Terms. The said Demand Drafts are accepted by the learned counsel Ms. Amal Patankar on behalf of the Respondent No.2 to be handed over to the Respondent No.2.

12 In the facts and circumstances of the present case, the Petitioner No.1 to deposit costs of Rs.25,000/- with The Society for the Rehabilitation of Crippled Children (SRCC), Haji Ali, at Worli, Mumbai within six weeks from date. Receipt to be obtained and filed in the Registry of this Court. The Respondent No.2 to also deposit costs of Rs.5,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry of this Court.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

**Laxmikant
Gopal
Chandan**

Digitally signed by
Laxmikant Gopal
Chandan

Date: 2018.08.06
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