

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3574 OF 2017**

Chandan Nabonath Jha & Ors. ...Petitioners
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Randhir Singh for the Petitioners

Dr. F. R. Shaikh, A.P.P for the Respondent No.1-State

Mr. Agastye Desai for the Respondent No. 2

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
FRIDAY, 10th AUGUST 2018***

P.C. :

1 The above Writ Petition has been filed for quashing of the proceedings being No. 2059/PW/2017 pending on the file of the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai. The said proceedings have arisen out of FIR being No. 441 of 2016 registered with the Sakinaka Police Station, Mumbai, on 18th August 2016, for the offences punishable under Sections 498(A), 406, 504, 506, 323 and 34 of the Indian Penal Code.

2 The said FIR is a consequence of the marital discord between the Petitioner No. 1-Chandan Jha and the Respondent No. 2-Monica Viswakarma (maiden name). It is not necessary to dilate further on facts. The parties were involved in a divorce proceeding being Petition No. F-2733 of 2016, which was filed in the Family Court in Mumbai. The said marriage Petition came to be decreed by judgment and order dated 27th June 2017 and the marriage between the Petitioner No. 1 and the Respondent No. 2 came to be dissolved.

3 The Respondent No. 2 has filed an affidavit affirmed in this Court on 24th August 2017. In Paragraph 1 of the said affidavit, she has stated that the differences and disputes between the Petitioners and the Respondent No. 2 have been settled and nothing survives in the matter. The affiant has further referred to the Decree of Divorce which has been passed on 27th June 2017. In the context of the present Petition, Paragraph 4 of the said affidavit is material and is reproduced hereinunder :

“4. Hence, it is most humbly submitted that the C.R. No. 441/2016 registered with Sakinaka Police Station along with the charge sheet bearing No. 2059/PW/2017 filed before the 66th Ld. MM's Court Andheri, Mumbai be quashed.”

4 The Respondent No. 2 is personally present in Court. She is identified by the learned counsel Mr. Agastye Desai. She is also identified by her Aadhar Card bearing No. 343193058802. When put in the box and queried, she states that she has read and understood the contents of her affidavit dated 24th August 2017. 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 affidavit of her own free will and volition.

5 The Petitioner No.1 is personally present in Court. He is identified by the learned counsel Mr. Randhir Singh. He is also identified by his Aadhar Card No. 401831075076. When put in the box and queried, he accepts the factum of settlement having taken place between him and the Respondent No. 2. In view of the statement recorded of the Petitioner No. 1, it is not necessary to record the statements of the other Petitioners.

6 Having regard to the decree of Divorce passed by the Family Court dated 27th June 2017, the affidavit filed by the Respondent No. 2 dated 24th August 2017, 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 amicably resolved all their disputes, as a result of which, the Respondent No. 2 is not desirous of proceeding with the case 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 lead to a conclusion that no useful purpose would be served in keeping the proceedings pending.

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

9 The Petitioner to deposit costs of Rs. 3,000/- 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.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065