

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3704 OF 2017**

Mr. Gaurav Raghuvir Dube & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. R. A. More for the Petitioners

Ms Savita Shinde a/w Mr. Hemant Khodke for the Respondent No.2

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

**CORAM :R. M. SAVANT, &
SANDEEP K SHINDE,JJ
DATE : 29th JANUARY, 2018**

P.C.

1 By the above Petition, the Petitioners seek quashing of the FIR bearing No. 121/2017 which has been registered on 16-6-2017 with Samarth Police Station Pune under Section 498A and 34 of the IPC.

2 The Petitioner No.1 and the Respondent No.2 were married on 25-1-2016. They are now estranged and the FIR is arising out of the matrimonial disputes between the parties. The parties are before the Family Court Pune wherein the Petitioner No.1 Gaurav Dube has filed a Petition bearing No.PA-168/2017 for divorce on the ground of cruelty under Section13(1)(1-a) of the Hindu Marriage Act. In the said proceedings, the parties have tendered Consent Terms dated 16-12-2017 evidencing the settlement arrived at between the parties. By the said Consent Terms, the parties have agreed to seek divorce

by mutual consent and thereby converted the said Petitioner to a Petition for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act.

3 In the context of the relief sought in the present Petition clause (8) of the Consent Terms assumes importance, in which the parties have provided that the Respondent No.2 herein would withdraw the FIR dated 21-12-2017 registered against the Petitioners as also the Petitioner No.1 would withdraw the Appeal filed by him in this Court. The said Consent Terms have been filed in the Family Court which are annexed to the Affidavit bearing today's date i.e. 25-1-2018 filed by the Respondent No.2 which Affidavit has been sworn before this Court. Paragraph 5 of the said affidavit is material and is reproduced hereinunder:

5. I say that I am aware that, I am submitting that, I have no objection if the complaint lodged by myself i.e. C. R. No.121 of 2017, registered at Samarth Police Station and all the proceedings arising pursuant to my complaint are quashed. I say that I do not want to pursue the said complaint. I say that I have no objection if the said complaint is quashed.

4 A reading of the Consent Terms as also the Affidavit discloses that the parties have amicably resolved their dispute. The Respondent No.2 is personally present in Court. She is identified by the Learned Counsel Ms Savita Shinde and Mr. Hemant Khodke. She is also identified by her Adhar Card No.510932372790. When put in the box and queried she accepts that

Consent Terms have been filed in the Family Court Pune evidencing the settlement arrived at between the parties. She further states that the Affidavit tendered by the Learned Counsel Ms Savita Shinde and Mr. Hemant Khodke is her's and that she has understood the contents of the said Affidavit. She states that she desires not to proceed with the FIR in view of the settlement arrived at between the parties.

5 The husband of the first informant is not present as he is doing his Doctorate in Cancer in Brussell, Belgium. However, the father-in-law i.e. the Petitioner No.2 Mr. Raghuvir Dube is personally present in Court. He is identified by the Learned Counsel Mr. More. He is also identified by his Adhar Card No.313637672511. When put in the box and queried he states that the settlement was arrived at between the parties in the Family Court and in terms of the said settlement the first informant is required to make a statement before this Court as regards not proceeding with the FIR. In view of the fact that the father-in-law of the first informant has stepped into the box and his statement has been recorded to the aforesaid effect it is not necessary to record the statement of the other Petitioners who are the mother-in-law, brother-in-laws and sister-in-laws of the first informant.

6 The Consent Terms as also the Affidavit filed by the Respondent No.2 dated 25-1-2018 disclose that the parties have amicably settled the

dispute as a consequence of which the first informant i.e. Respondent No.2 does not desire to proceed with the FIR. Having regard 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, there is no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the proceedings pending, the above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Writ Petition is accordingly disposed of.

7 In view of the fact that the machinery of this Court has been used to settle the dispute, it would be just and proper that the Petitioner No.1 and the Respondent No.2 to deposit costs of Rs.10,000/- each totalling Rs.20,000/- with the Maharashtra Legal Aid Fund within 6 weeks from date, receipts to be obtained and filed in the registry.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR scw 2065