

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 986 OF 2017

Pankaj Mansukhbhai and Ors.Applicants

V/s.

Shahanavaz Ashif Movar and Ors.Respondents

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Mr. A.J. Kenjale, Advocate for the applicants.

Mrs. A.S. Pai, Addl. P.P. For State, respondent no.1.

Mr. Akshay Kamble i/by. Mr. Sohil Gulabani, Advocate for respondents no.1 and 2.

Ms. Purnima H. Kantharia, Advocate for respondent no.3.

CORAM :-

R.M. SAVANT, &

SANDEEP K. SHINDE, JJ.

DATE :-

29TH JANUARY, 2018.

P.C. :-

1. The above Criminal Application has been filed for quashing of the FIR being C.R. No. 73 of 2017 registered with the Diu Police Station on 15th July, 2017 for the offences punishable under Sections 143, 147, 148, 149,

307, 323, 504 and 506(II) of the Indian Penal Code. The said FIR has arisen out of the fight between the petitioners and the group of the respondent no.1 during the marriage ceremony of one, Kameen.

2. The parties have amicably resolved their dispute and the First Informant and the victim i.e. respondents no.1 and 2 have filed an Affidavit styled as Affidavit-cum-settlement terms dated 30th November, 2017 and notarised before the Notary, Mrs. Aliya Pathan bearing Notary Registration No. 27771. In the context of the present petition, paras-4(c) and (d) of the said Affidavit-cum-settlement terms are material and are reproduced hereinunder :-

“(c) That the dispute between the Petitioners and the Respondent No.1 has been amicably resolved and the Petitioners and the Respondents have agreed not to have any dispute or fight between them and therefore, in the interest of the justice, the C.R. No.73 of 2017 registered with the Diu Police Station on 15.7.2017 for the offence punishable u/sec. 143, 147, 148, 149, 307, 323, 504 and 506(2) of Indian Penal Code against the Petitioners is deserves to be quashed and set aside.

5. In the above mentioned facts and circumstances and in view of the aforesaid amicable settlement, the undersigned Complainant and victim / eye-witness has no objection in this Hon'ble Court quashes the FIR bearing C.R. No.73 of 2017 registered with Diu Police Station."

3. The reading of the said Affidavit-cum-settlement terms, therefore discloses the amicable settlement arrived at between the parties, as a result of which, the respondent no.1 i.e. the First Informant, as well as, respondent no.2 i.e. the victim does not desire the Investigating Agency to further carry out investigation and take steps pursuant thereto.

4. The respondent no.1 is personally present in the Court. Respondent no.1 is identified by Mr. Akshay Kamble instructed by Mr. Sohail Gulabani. He is further identified by his Aadhar Card bearing no. 4214 6427 3688. When put in the box and queried, he states that, he has understood the contents of the Affidavit as the same were explained to him by his Learned Counsel, Mr. Kamble. He further states that, on account of the

settlement between the parties, he does not desire to proceed with the FIR.

5. The respondent no.2, Hussain Kadir Makrani, is also personally present in the Court. He is identified by the Learned Counsel, Mr. Kamble. He is further identified by his Aadhar Card bearing no. 7128 4864 4711. When put in the box and queried, he states that, he has understood the contents of the settlement and that he does not desire to proceed with the FIR.

6. The petitioner no.1, Pankaj Mansukhbhai is personally present in the Court. He is identified by the Learned Counsel, Mr. Kenjale. He is also identified by his Aadhar Card bearing no. 5150 7839 2043. When put in the box and queried, he reiterates what has been stated by respondents no.1 and 2 as regards the settlement arrived at between the parties.

7. The petitioner no.3, Chintan Baria is also personally present in the Court. He is identified by the Learned Counsel, Mr. Kenjale. He is also identified by his

Aadhar Card bearing No. 3969 0085 0800. When put in the box and queried, he reiterates what has been stated by the petitioner no.1.

8. The petitioner no.2, Sohil Mansukh is also personally present in the Court. He is identified by the Learned Counsel, Mr. Kenjale. He is also identified by his Aadhar Card bearing No. 4279 1516 8963. When put in the box and queried, he reiterates what has been stated by petitioner no.1.

9. In view of the Affidavit-cum-settlement terms dated 30th November, 2017 and in view of the statements made by the petitioners, as well as, respondents no.1 and 2, when put in the box, the same discloses that the parties have amicably settled their disputes and hence no useful purpose would be served in further investigating the FIR lodged by the respondent no.1.

10. Thus, considering the principles laid down in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we are of the view that there is

no impediment in quashing the subject proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab, reported in (2012) 10 SCC 303** would also lead to the same conclusion. The above petition is accordingly allowed in terms of prayer clause (a).

10. The applicants to pay costs of Rs.15,000/- i.e. Rs.5,000/- each to be deposited with the Maharashtra Legal Aid Fund within a period of 4 weeks from date. Receipts to be obtained and filed in the Registry.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)