

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1018 OF 2017

Mr. Deepak T Shetty and anr. : Applicants.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. D S Joshi for the Applicants.
Mrs. P P Shinde, APP for the Respondent/State.
Mr. Pramod Pandey for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 20th JUNE 2018

P.C.

1 At the outset the learned counsel appearing on behalf of the Applicants Shri D S Joshi seeks leave to amend so as to re-number the prayer clauses. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of proceedings being CC No.3087/PW/2016 pending on the file of the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai. The said proceedings have arisen out of the FIR being CR No.576 of 2015 for the offences punishable under Sections 498A and 34 of the Indian Penal Code. The said C.R. was registered with Andheri Police Station on 16/10/2015.

3 It seems that the parties were before the Family Court at Bandra, Mumbai in Petition No.F-2332 of 2017. The said Petition was filed under

Section 13-B of the Hindu Marriage Act for divorce by mutual consent. Whilst the parties were before the Family Court, they have arrived at a settlement which was reduced into writing by way of a Deed of Settlement dated 07/04/2017. The said Deed of Settlement has been signed by the parties as also the witnesses one Shreyas S Bhandary and Jyoti Shetty. The Family Court thereafter has passed a decree of divorce by allowing the said Petition, and has also taken on record the Deed of Settlement which is a part of the order passed by the Family Court dated 27/10/2017.

4 The Respondent No.2 herein has also filed an affidavit dated 09/10/2017 affirmed in this Court on the said day. In the said affidavit the Deed of Settlement dated 07/04/2017 has been referred to and the terms contained therein. In the context of the relief sought in the above Application, paragraph 12 of the said affidavit is material and is reproduced herein under :-

“12 I state that the Respondent No.2 is executing this affidavit by way of her written statement, consent and NOC in favour of the applicants to enable this Hon'ble Court to quash the said proceeding, bearing CC No.3087/PW/2016 pending against the applicants before the Hon'ble 65th M.M. Court, at Andheri, Mumbai based upon FIR being C.R.No.576/2015 registered by Respondent No.1.”

5 The Respondent No.2 – Deepa D Sheety is personally present in Court. She is identified by the learned counsel Shri Pramod Pandey. She is also identified by her PAN Card bearing No.AXVPS9423R which is in her maiden

name Deepa K Shetty. When put in the box and queried she states that the affidavit dated 09/10/2017 is hers and that she has read and understood the contents of the said affidavit. She further states that on account of the settlement between the parties, she does not desire to proceed with the proceedings in question. She lastly states that she has filed the affidavit dated 09/10/2017 of her own free will and volition.

6 The Petitioner No.1 – Deepak T Shetty is personally present in Court. He is identified by the learned counsel Shri D S Joshi. He is also identified by his Aadhar Card bearing No.688783325783. The said Aadhar Card bears the following address :- “No.212, Akshayas Sai Lake View, Maregowda Circle Nagarabhavi 2nd Stage, Gidadakonenahalli, Bangalore, Karnataka – 560091.” When put in the box and queried, the Petitioner No.1 accepts the factum of settlement between the Petitioners and the Respondent No.2 herein, as a consequence of which the Respondent No.2 does not desire to proceed with the proceedings in question.

7 In view of the statements recorded of the Petitioner No.1, it is not necessary to record the statement of the Petitioner No.2 who is his married sister.

8 Having regard to the Deed of Settlement dated 07/04/2017,

affidavit of the Respondent No.2 dated 09/10/2017, the decree passed by the Family Court dated 27/10/2017 and the statements of the Respondent No.2 and the Petitioner No.1 when put in the box and queried, the same lead to a conclusion that the parties have settled their dispute as a consequence of which the Respondent No.2 is not desirous of proceeding with the proceedings 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 Application is required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (2). Resultantly the proceedings being CC No.3087/PW/2016 stands quashed and set aside. The above Criminal Application is accordingly disposed of.

11 The Petitioner No.1 to pay costs of Rs.25,000/- to be deposited 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]