

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4292 OF 2017

Parimal Dayabhai Makwana.] ... Petitioner

Versus

1. The State of Maharashtra,]
2. Ramila Parimal Makwana.] ... Respondents

Mr. Bharat K. Manghani for Petitioner.

Mrs. A. S. Pai, Addl. P. P. for State – Respondent No.1.

Mr. Gautam Jain for Respondent No.2.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.

DATE :- 15 MARCH, 2018

P. C. :-

1. The above Petition has been filed for quashing of the proceedings being CC No.1800/PW/2008 pending in the Court of learned Metropolitan Magistrate, 9th Court, Bandra, Mumbai. The said proceedings have arisen out of the registration of FIR being C.R.No.96 of 2015 registered with the Mahim Police Station, Mumbai for the offence punishable under Section 498A of the IPC. The said proceedings have seemingly arisen out of the matrimonial dispute

between the parties. The Respondent No.2 herein has filed an Affidavit dated 18/07/2017 and sworn before R. B. Thakare, Advocate & Notary, having his office at 31, Maruti Mansion, 17, Raghunath Dadaji Street, Fort, Mumbai – 400 001. In the context of the reliefs sought in the present Petition, paragraphs 5, 6 and 7 of the said Affidavit are material and are reproduced hereinunder.

“5. I further say that, vide a letter dated 11th June, 2008 addressed to the Senior Inspector of Police, Mahim Police Station, I had expressed my willingness to drop the proceedings against my husband Mr.Parimal Makwana but due to my ill health, I could not pursue it further.

6. I say that I am presently living happily with my family and I have no complaints whatsoever against my husband Mr. Parimal Makwana.

7. I say that I am expressing my desire to settle the dispute amicably and drop the proceedings against my husband Mr. Parimal Makwana being CC No.1800/PW/2008 pending before the Metropolitan Magistrate, 9th Court, Bandra, Mumbai, out of my free will without any force, coercion or any duress.”

A reading of the said Affidavit discloses that the parties have reconciled to each other and that they are presently living together and have no complaints against each other of whatsoever nature.

2. The Respondent No.2 is personally present in Court. She is identified by the learned Counsel Mr. Gautam Jain. She is also identified by her Aadhar Card bearing No.5290 5655 9880. When put in the box and queried, she states that she is presently living with her husband and that she has no complaints against her husband and she, therefore, does not desire to proceed with the proceedings in question. The Petitioner Mr. Parimal Makwana is also personally present in Court. He is identified by the learned Counsel Mr. Bharat Manghani. He is also identified by his Aadhar Card bearing No.6164 6917 0370. When put in the box and queried, he states that he and his wife are residing together and that they have no issues against each other.

3. In view of the Affidavit of the Respondent No.2 as also having regard to the statements made by the Respondent No.2 and the Petitioner when put in the box and queried, the same indicate that the parties do not have any dispute with each other and that they are living together and are happy with each other.

4. Having regard to the aforesaid facts, reference to the Judgments of the Apex Court in the cases of Gian Singh Vs. State of

Punjab & Anr. reported in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065.

would be apposite. No useful purpose would be served in continuing the proceedings. The Petition is accordingly allowed and made absolute in terms of prayer clause (a).

5. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the matter, the Petitioner to 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.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)