

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3956 OF 2016**

Sayantana Roy & Ors.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondent

Ms. Neelam Asrani i/b Ms. Poonam Ankleshwaria for the Petitioners

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

Mr. Saeed Akhtar a/w Ms. Pinny Pathak for the Respondent No. 2

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
FRIDAY, 13th JULY, 2018***

P.C. :

1 Leave to amend is granted so as to incorporate reference to the charge-sheet bearing No. 1338/PW/17. In view of the fact that the amendment is formal, re-verification is dispensed with.

2 The above Writ Petition has been filed for quashing of the charge-sheet bearing No. 1338/PW/17. The said charge-sheet has arisen out of the FIR No. 358 of 2016 for the offences punishable under Sections 498A, 406, 323, 504, 506 and 34 of the Indian Penal

Code, 1860. The said FIR is the consequence of the marital discord between the Petitioner No.1 and the Respondent No.2, who are husband and wife. The parties are also before the Family Court, Bandra, Mumbai, in Marriage Petition No. A-1917 of 2018, which was initially filed for divorce under Section 13(1)(1-a). The parties, it seems were referred to the Marriage Counsellor as per practice. Before the Marriage Counsellor, the parties have reached a settlement, which has been reduced into writing by way of Consent Terms dated 21st April 2018. In terms of the said Consent Terms, the parties have agreed to obtain divorce by mutual consent. In terms of the Consent Terms, the Petitioner No. 1 is required to deposit a sum of Rs. 32 lakhs in the Family Court before passing of the Decree of dissolution of marriage.

3 Insofar as the present proceedings are concerned, the Respondent No. 2 has given her no objection for quashing of the present proceedings being FIR No. 358 of 2016 and now bearing charge-sheet No. 1338/PW/17 pending before the learned Metropolitan Magistrate, 71st Court, Bandra, Mumbai. It seems that the Marriage

Petition is to come up before the Family Court on 23rd July 2018 for passing of the final orders in the Marriage Petition which, as indicated above, has now been converted into a Petition for Divorce by mutual consent.

4 The Respondent No.2 is personally present in Court. She is identified by the learned counsel Mr. Saeed Akhtar. She is identified by her PAN Card bearing No. AYIPM3799C, which is in her maiden name – Kanchan Majumdar. When put in the box and queried, she states that she has read and understood the contents of the said affidavit, which is tendered by her learned counsel today in Court i.e. the affidavit dated 26th June 2018. She further states that in view of the settlement between the parties that she does not desire to proceed with the case in question. She lastly states that she has filed the affidavit of her own free will and volition.

5 The Petitioners are not present in Court. The Petitioner No. 1, we are informed, is working in Malaysia and Petitioner Nos. 2 and 3 are residents of Kolkatta.

6 Be that as it may, since the parties have filed Consent Terms in the Marriage Petition, by which, they have agreed to obtain divorce by mutual consent, which Petition is to come up before the Family Court on 23rd July 2018 and considering the fact that the Respondent No. 2 has filed an affidavit, giving her no objection to the quashing of the proceedings as also has reiterated the same, when put in the box and queried, we are of the view that no useful purpose would be served in keeping the proceedings pending before the concerned learned Metropolitan Magistrate, Bandra, Mumbai.

7 In the said context, a useful reference could be made to the judgments of the Apex Court in the matters of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which would assist in quashing of the proceedings in question. The above Criminal Writ Petition is required to be allowed and is accordingly allowed in terms of prayer clause 19(i), resultantly the charge-sheet bearing No. 1338/PW/17 would stand quashed and set aside.

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

8 The above Criminal Writ Petition is accordingly disposed of.

9 In the facts and circumstances of the case, the Petitioners to deposit costs of Rs.20,000/- in total and the Respondent No. 2 to deposit costs of Rs. 10,000/- with the State Legal Aid Fund within 6 weeks from date. Receipts to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.