

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4545 OF 2015**

Arun Janardan Kurup & Ors.

..Petitioners

Vs.

State of Maharashtra & Anr.

..Respondents

Mr.Ganesh Bhujbal for the Petitioners.

Mr.Ujjwal Gandhi for the Respondent No.2.

Mr.A.D.Kamkhedkar APP for the Respondent State.

**CORAM : R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 18th JUNE, 2018**

P.C.

1 The above Writ Petition has been filed for quashing of the FIR being C.R.No.515 of 2015 registered with D.N.Nagar Police Station, Mumbai on 9th August 2015 for the offence punishable under Section 498-A of the Indian Penal Code. The said FIR is arising out of the matrimonial discord between the Petitioner No.1 and the Respondent No.2 herein, who are husband and wife. It is not necessary to dilate further on facts. It seems that the parties were before the Family Court in Marriage Petition No.A-2816 of 2016, which was filed for divorce by the Respondent No.2 herein on the ground of cruelty i.e. under Section 13(1)(a-i) of the Hindu Marriage Act. In the said Petition, the parties were referred to the Marriage Counsellor. Before the Marriage Counsellor, the parties have arrived at a settlement, which is reduced into writing by way of the Consent Terms dated 4th June 2018. In the context of the

present Petition, clause (2) of the Consent Terms is material and is reproduced hereinunder.

“The Petitioner undertakes that upon signing of these Consent Terms and after the Respondent deposits the aforesaid amount of Rs.55,00,000/- in this Hon'ble Court, she shall give consent for the quashing of the FIR No.515/15 and Chargesheet in Writ Petition No.4545 of 2015 pending before the Hon'ble High Court at Bombay on or before 30th June 2018. It is clarified that in the event any cost is levied, the same shall be borne by the Respondent.”

2 The Respondent No.2 has also filed an affidavit bearing today's date i.e. 18th June 2018. The said affidavit is affirmed before Mr.D.R.Sawant, Advocate High Court, Notary Govt.of India having his office at 4, Shreeji Shirin Apt., Bldg.No.5, Opp. Ganga Jamuna Cinema, Tardeo, Mumbai 400 007. The said affidavit bears the Notarial Registration No.2750 of 2018. Insofar as this affidavit is concerned, paragraph 3 of the said affidavit is material and is reproduced hereinunder.

“I say that accordingly, Divorce Petition was filed before the Ld. Family Court and the same is numbered as 2816/16. In the said proceedings, both the parties have filed Consent Terms by stating that the both the parties have amicably settled the dispute between them and decided to dissolve their marriage. I further say that in the said Consent Terms, I had agreed to give consent for quashing of the FIR, which is subject matter of the present petition. I say that as per the settlement between the parties, I have no objection to quash and set aside the FIR impugned in the present petition i.e.

C.R.No.515/2015 registered with D.N.Nagar Police Station for the offence punishable u/s.498(A) of I.P.C.”.

3 The Respondent No.2 is personally present in Court. She is identified by the learned counsel Mr.Ujjwal Gandhi. She is also identified by her Aadhar Card bearing No.8736 5244 2362. When put in the Witness Box and queried, she accepts the factum of settlement being arrived in the Family Court between her and the Petitioner No.1. She further states that she has read and understood the contents of the affidavit tendered across the Bar today. She states that she has filed the said affidavit of her own free will and volition. Lastly she states that she does not desire to proceed with the FIR in question in view of the settlement arrived at between the parties.

4 The Petitioner No.1-Arun Janardan Kurup is also personally present in Court. He is identified by the learned counsel Mr.Ganesh Bhujbal. He is also identified by his Driving Licence bearing No.MH43 20050000360 issued on 11th January 2005 and valid upto 10th January 2025. When put in the Witness Box and queried, he states that he accepts the factum of settlement arrived at between the parties as a consequence of which, the Respondent No.2 does not desire to proceed with the FIR in question.

5 Having regard to the Consent Terms dated 4th June 2018 filed in the Family Court, the affidavit dated 18th June 2018 filed by the Respondent

No.2 and the statements made by the Respondent No.2 and the Petitioner No.1 when put in the Witness Box and queried, the same lead to an irresistible conclusion that the parties have settled their dispute as a result of which, the Respondent No.2 does not desire to proceed with the FIR in question. Having regard to the judgments of the Apex Court in the matter of **Gian Singh V/s State of Punjab & Anr¹** and **Narinder Singh & ors v/s. State of Punjab & Anr²**, no useful purpose would be served in keeping the proceedings in question pending. The above Criminal Writ Petition is therefore required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the FIR being C.R.No.515 of 2015 would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

6 The Petitioner No.1 to deposit costs of Rs.25,000/- with the State Legal Aid Fund within 6 weeks from date. Receipt to be obtained and filed in the registry.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065