

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

CRIMINAL APPLICATION NO.1409 OF 2016

Mrs. Sakshi Nilesh Kadlag : Applicant.
Versus
Mr. Nilesh Vithal Kadlag and anr. : Respondents.

Mr. Saiprasad Dudhane a/w Ms. Samidha Mondal i/by Mr. M A Dudhane
for the Applicant.
Mr. Bhojraj Barte for the Respondent No.1.
Mr. F R Shaikh, Addl. PP for the Respondent/State.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE : 06th APRIL 2018

P.C.

1 Leave to amend is granted so as to correct the prayer clause (a) so as to seek quashing of the proceedings being CC No.1061 of 2013. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the proceedings being CC No.1061 of 2013 pending in the Belapur Court, Navi Mumbai arising out of FIR No.257 of 2011 for the offence punishable under Sections 498A, 406, 506 r/w 34 of the Indian Penal Code. The said FIR was registered with Turbhe Police Station, Navi Mumbai. It appears that the cause for the said FIR was the matrimonial dispute between the Respondent No.1 and the Applicant who are husband and wife

3 The parties were before the learned Civil Judge Senior Division, Thane in the Marriage Petition No.310 of 2011 which was originally filed for divorce on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act. It seems that whilst the parties were before the said Court, the parties had arrived at a settlement and had agreed for approaching or converting the said Marriage Petition into a Petition for divorce by mutual consent. The said terms and conditions of the settlement are annexed to the said Petition from page 35 onwards. In the context of the relief sought in the present Criminal Application clause (e) of the said terms and conditions is material and is reproduced herein under :-

“(e) The Petitioner No.2 shall within a period of 15 days from the date of Registration of Gift/Release Deed, withdraw complaint bearing No.1061/13 which is file u/s. 498A and complaint bearing No.456/2015, which is file u/s 453 of I.I.C. And Recovering proceeding bearing No.45/15 which is filed against the Petitioner No.1 after handing over the possession of the aforesaid flat. Furthermore, both the parties hereby withdraw all the allegations, complaints, mentioned in the main Petition etc. made against each other and shall deem to have withdrawn and finally settled all their dispute.”

4 The learned counsel for the parties are ad-idem that the terms and conditions of the said settlement have been complied with except handing over of the mobile phone.

5 The Applicant – Mrs. Sakshi Nilesh Kadlag is pesonally present in

Court. She is identified by the learned counsel Mr. Saiprasad Dudhane appearing along with Ms. Samidha Mondal. She is also identified by her Aadhar Card bearing No.883755574484. She identifies the Respondent No.1 i.e. the first informant as being her husband.

6 The Respondent No.1 Nilesh Vithal Kadlag is personally present in Court. When put in the box and queried, he accepts the factum of the settlement having taken place between the parties. He further states that the cell phone is remaining to be handed over to him. He further states that he is not desires of proceeding with the case in question.

7 The Applicant – Sakshi Nilesh Kadlag when put in the box and queries also accepts the factum of settlement having taken place between the parties.

8 Having regard to the terms and conditions of the settlement as also the statements made by the Respondent No.1 and the Applicant when put in the box and queried, they lead to a conclusion that the parties have settled their dispute as result of which the Respondent No.2 does not desire to proceed with the case 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 (a). The above Criminal Application is accordingly disposed of.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]