

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4737 OF 2017

Mrs. Manjushree Abhijeet Wable & Ors.Petitioners
V/s.
The State of Maharashtra & Anr.Respondents

Mr. Manish Rai, Advocate for Petitioners.
Mr. A.R.Kapadnis, APP for the Respondent-State.
Ms. Megha M. Pawar, Advocate for Respondent No.2.
Petitioner No.3 and Respondent No.2 present.

**CORAM :- R.M.SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 9TH JANUARY, 2018.

RC. :-

The above Writ Petition has been filed for quashing and setting aside the proceedings being Criminal Case No.1251/PW/2016 pending before the learned Metropolitan Magistrate, 73rd Court, Vikroli, Mumbai. The said case has arisen out of C.R.No.98 of 2014 registered with Pantnagar Police Station, Mumbai for the offences punishable under Sections 498-A, 406 read with Section 34 of IPC. The Petitioner No.3 and the Respondent No.2 are husband and wife and the said offence has been registered on account of the matrimonial disputes between the parties. In

respect of said matrimonial disputes, parties were before the Family Court by way of M.J. Petition No.A-2583 of 2015 filed by the husband i.e. Mr. Vijay Pandurang Mote for divorce on account of cruelty under Section 13 of the Hindu Marriage Act, 1955. In the said matrimonial proceedings, parties have arrived at Consent Terms evidencing the settlement arrived at between the parties. In the context of the present Petition, clauses 9,10 and 11 of the said Consent Terms are material and are re-produced hereunder:

“9 It is agreed by and between the parties that the Petitioner shall file an appropriate proceeding before the Hon'ble High Court for quashing and setting aside the above referred FIR/Criminal case pending before the 73rd Metropolitan Magistrate Court, Vikroli, Mumbai being CC No.1251/PW of 2016.

10 The Respondent is allowed to withdraw Rs.5,00,000/- (Rupees Five Lakhs Only) deposited by the Petitioner at Family Court, Mumbai, only after the Criminal Case is disposed of pending before 73rd Metropolitan Magistrate Court, Vikroli, Mumbai being CC No.1251/PW of 2016.

11 The Petitioner states that he shall file the proceeding before the Hon'ble High Court, Mumbai within two weeks of depositing the amount of Rs.5,00,000/- (Rupees Five Lakhs Only) at the Family Court, Mumbai and the Respondent shall render her full co-operation and support in withdrawal/quashing/setting aside the Criminal Case No.1251/PW of 2016 pending before 73rd Metropolitan Magistrate Court, Vikroli, Mumbai.”

2 Hence, it is agreed between the parties that the

husband would file proceedings before this Court for quashing of the FIR and the criminal case arising therefrom and that the wife would consent to such quashing. Hence, the said Consent Terms reflect the settlement arrived at between the parties in respect of the present proceedings. On behalf of the Respondent No.2 affidavit bearing today's date has been tendered by the learned advocate Ms. Megha Pawar. In paragraph 3 of the said affidavit, it has been stated that the Respondent No.2 has no objection if the criminal complaint is quashed and set aside in view of the settlement between the parties. The Respondent No.2-Mrs.Vrushali Vijay Mote is also personally present in the Court. She is identified by the learned counsel Ms. Megha Pawar. She is also identified by her Adhar Card bearing No.3909 0536 8171. When put in the box and queried, she states that Consent Terms have been arrived at between the parties in the Family Court at Mumbai and in consequence thereof, she does not desire to proceed with the proceedings which has arisen pursuant to the FIR. The Petitioner No.3, i.e., the Husband Mr. Vijay Pandurang Mote is also personally present in the Court. He is identified by the learned counsel Mr. Manish Rai. He is also identified by his Adhar Card bearing No.7053 6389 3568. When put in the box and queried, he states that a settlement has been arrived at between the parties in

the Family Court at Bandra pursuant to which Consent Terms have been filed in the Family Court and it is pursuant to the Consent Terms that the Respondent No.2 has consented to the quashing of the instant proceedings. In view of the affidavit filed by the Respondent No.2 as also in view of the statements made by the Respondent No.2 and the Petitioner No.3 and having regard to the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. The Petition is, therefore, required to be allowed and is, accordingly, allowed in terms of prayer clause (a). The Petition is disposed of.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)