

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4155 OF 2016**

**Yashasvi Gopal Gupta & Ors
Vs.
State of Maharashtra & Anr**

**..Petitioners
..Respondents**

**Mr. J. S. Kini a/w Ms Sapna Krinappa i/b Mr. Suresh Dubey for the
Petitioners
Mr. B. B. Tiwari i/b BBT Legal for the Respondent No.2
Mr. Avinash Kamkhdekar Addl PP for the Respondent State**

**CORAM :R. M. SAVANT, &
REVATI MOHITE DERE,JJ
DATE : 30th JULY, 2018**

P.C.

1 Leave to amend is granted so as to incorporate Case No.PW/2489/2016 in prayer clause (a). Amendment to be carried out forthwith.

2 The above Writ Petition has been filed for quashing of case No.PW/2489/2016, pending on the file of the Learned Metropolitan Magistrate, 51st Court, Kurla, Mumbai. The said proceedings have arisen out of FIR No.73 of 2016 registered with the Sion Police station for the offences punishable under Sections 498A, 406, 420 read with the 34 of the IPC and Sections 3 and 4 of The Dowry Prohibition Act. The said FIR has arisen out of the marital discord between the Petitioner No.1 and the Respondent No.2

herein. It is not necessary to dilate further on facts. The parties it seems were involved in other proceedings namely Suit filed by the Petitioner No.1 in the City Civil Court, Mumbai and the proceedings in the Family Court for annulment of marriage filed by the Respondent No.2 and the Petition for judicial separation filed by the Petitioner No.1. In the said proceedings for divorce being Petition No.A-873 of 2016, the parties arrived at a settlement before the marriage counsellor on 20-7-2018 which settlement is reduced into writing by way of Consent Terms bearing the said date. Clauses 12 and 13 of the Consent Terms are material in the context of the present Petition and are therefore reproduced hereinunder:

12 Immediately within 10 days after the quashing of the criminal case as mentioned above, the Petitioner shall withdraw Suit No.1115 of 2016 pending before the Hon'ble Bombay City Civil Court at Bombay, filed by the Respondent praying for Compensation for Defamation against Petitioner and her parents and brother. The Respondent confirms that he has no claim in respect of damages and compensation against the Petitioner and her family members now or in future and the Respondent withdraws the claim of damages and compensation and all other claims of whatsoever nature.

13 The Respondent has agreed to file Affidavit of Undertakings before this Hon'ble Family Court at the time of signing the Consent Terms in the above matter and before the Hon'ble High Court at the time of requesting for quashing Order in Criminal WP No.4155 of 2016, that on quashing of CC No.PW/2489/2016 (FIR No.73 of 2016 of Sion Police Station) the Respondent shall unconditionally withdraw Suit No.1115 of 2016 pending before the Hon'ble Bombay City Civil Court at Bombay.

3 The Petitioner No.1 in terms of the said Consent Terms and especially the aforesaid clauses 12 and 13 thereof has filed an affidavit cum undertaking bearing today's date i.e. 30-7-2018 and affirmed in this court today i.e. 30-7-2018.

4 The Respondent No.2 i.e. the first informant Mrs. Aditi Gupta has filed an affidavit also bearing today's date and affirmed before P.S.Gujar, Advocate and Notary, Union of India, Greater Mumbai. The said affidavit bears notarial registration No.2834 dated 30-7-2018. The said affidavit refers to the settlement arrived at between the parties. Paragraphs 2 and 3 of the said affidavit are material and are reproduced hereinunder:

2. I state that in view of the above, I do not have any objection to the Petition being allowed.

3. I do not wish to prosecute the above complaint any more and I consent to the quashing of the FIR.

5 The Respondent No.2 Mrs. Aditi Gupta is personally present in Court. She is identified by the Learned Counsel Mr.Tiwari. She is also identified by her Adhar Card bearing No.828326247433. When put in the box and queried she states that the affidavit tendered by the Learned Counsel Mr.Tiari is her's. She further states that she has read and understood the contents of the affidavit. She further states that she has filed the said affidavit in view of the settlement between her and the Petitioner No.1. She lastly states that she has filed the said affidavit of her own free will and volition.

6 The Petitioner No.1 Mr. Yashasvi Gupta is also personally present in Court. He is identified by the Learned Counsel Mr. Kini. He is also identified by his Election Card bearing No.ITD1023670. When put in the box and queried, he accepts the factum of settlement between the parties as a result of which the Respondent No.2 is not desirous of proceeding with the case in question before the concerned Learned Metropolitan Magistrate.

7 Having regard to the Consent Terms dated 20-7-2018 filed by the parties in the Family Court, affidavit filed by the Respondent No.2 dated 30-7-2018, affidavit cum undertaking filed by the Petitioner No.1, as also the statements made by the Respondent No.2 and the Petitioner No.1 when put in the box and queried. The same indicates that the parties have settled their dispute as a result of which the Respondent No.2 is not desirous of proceeding with the case in question. In the aforesaid factual backdrop, a reference 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**, would be apposite as the said judgments would aid in quashing of the proceedings which are pending in the court of the Learned Metropolitan Magistrate, 51st Court, Kurla, Mumbai. The above Criminal Writ Petition is required to be

¹ (2012) 10 SCC 303

² 2014 AIR SCW 2065

allowed and is accordingly allowed and made absolute in terms of prayer clause (a), resultantly the proceedings being case No.PW/2489/2016 would stand quashed and set aside. The above Criminal Writ Petition is accordingly disposed of.

8 The Petitioner No.1 and the Respondent No.2 to deposit costs of Rs.10,000/- each totalling to Rs.20,000/- 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]

Meera
Mahesh
Jadhav

Digitally signed by
Meera Mahesh
Jadhav
Date: 2018.08.01
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