

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

CRIMINAL APPLICATION NO.1224 OF 2017

Abhijeet Harish Ghavare and ors. : Applicants.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. S S Karmarkar for the Applicants.
Mr K V Saste, Addl.PP for the Respondent/State.
Mrs. Sonal Parab i/by Rajeev Sawant & Associates for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.**
DATE : 24th JANUARY 2018

P.C.

1 The above Criminal Application has been filed for quashing of the proceedings being CC No.2474/PW/2014 pending before the learned Additional Metropolitan Magistrate, 24th Court, Borivali, Mumbai arising out of CR No.406 of 2013 registered with Malad Police Station for the offences punishable under Sections 498A, 406, 506, 504, 323 read with Section 34 of the Indian Penal Code.

2 The Petitioner No.1 and the Respondent No.2 were married on 23/12/2012. The FIR is on account of the marital disputes between the two. The parties are before the Family Court in Petition No.A-2341 of 2015. The said Petition is filed by the Petitioner No.1 herein for divorce under Section 13(1)(i-a) of the Hindu Marriage Act. The parties have amicably resolved their

disputes. In the said Petition both the parties propose to file Consent Terms whereby they seek to obtain divorce by mutual consent under Section 13(B) of the said Act. The said Consent Terms have been filed in the Family Court in the said proceedings according to the learned counsel appearing for the parties.

3 In terms of clause (3) of the said Consent Terms the First Informant i.e. the Respondent No.2 herein has agreed to co-operate with the Petitioner for quashing of the Criminal Case filed by her under Section 498A of the Indian Penal Code by filing her affidavit in support thereof. The said Consent Terms also contained other terms and conditions relating to the settlement between the parties. It is not necessary to go into the said aspect in the present Criminal Application.

4 The First Informant i.e. the Respondent No.2 Mrs. Shraddha Abhijeet Ghavare has, as per Clause 3 of the Consent Terms, filed an Affidavit bearing today's date i.e. 24/01/2018. In the context of the present Criminal Application paragraphs 5 and 7 of the said affidavit are material and are reproduced herein under :-

“5 I say that in the light of the aforesaid I have settled the dispute with the present Applicant and I am not desirous of continuing the prosecution in C.R.No.406 of 2013 registered with Malad Police Station for offences punishable u/sec 406, 323, 498-A, 504, 506 r/w 34 of the Indian Penal Code on

09/11/2013 against the present Applicant.

“7 I say that I hereby expressly record my no objection to quash the C.R.No.406 of 2013 registered with Malad Police Station for offences punishable u/sec 406, 323, 498-A, 504, 506 r/w 34 of the Indian Penal Code against the Applicants.”

5 Hence reading of the Consent Terms filed in the Family Court which are annexed as Exhibit B(1) at page 161 of the Application paper book as also having regard to the Affidavit of the First Informant i.e. the Respondent No.2 herein it is clear that the parties have settled their disputes amicably.

6 The Respondent No.2 herein Mrs. Shraddha Abhijeet Ghavare is personally present in Court. She is identified by the learned counsel Mrs. Sonal Parab. She is also identified by her Driving License bearing No.MH02-20090111722 issued on 25/06/2009 and valid till 24/06/2029. When put in the box and queried she accepts the factum of the Consent Terms being arrived at and filed in the Family Court. She further states that she has read and understood the contents of the Affidavit bearing today's date tendered by her learned counsel Mrs. Sonal Parab. She states that the statements made in the said Affidavit are acceptable to her. She also states that the Affidavit tendered by her learned counsel Mrs. Sonal Parab has been filed by her of her own will and volition.

7 The Petitioner No.1 Abhijeet Harish Ghavare is also personally

present in Court. He is identified by his learned counsel Mr. S S Karmarkar. He is also identified by his Aadhar Card bearing No.7795 7935 7091. When put in the box and queried, he accepts the factum of the Consent Terms being arrived at and filed in the Family Court. He further states that it is as a consequence of the Consent Terms that the Respondent No.2 has agreed for quashing of the FIR filed by her.

8 Having regard to the Consent Terms as also the Affidavit of the Respondent No.2 herein and 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 continuing the proceedings in the Family Court. The same would be a futile exercise. Hence there is no impediment in above Criminal Application.

9 The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (b). Since the machinery of this Court has been utilized, it would be just and proper to direct both the Petitioner No.1 and the Respondent No.2 to pay costs of Rs.10,000/- each i.e. totalling Rs.20,000/- to the Maharashtra Legal Aid Fund. The same to be deposited within six weeks from date and receipts to be obtained and filed in the Registry of this Court. The above Criminal Application is accordingly

disposed of.

10 The learned counsel appearing on behalf of the Petitioners Mr. S S Karmarkar on instructions states that the Petitioners have no objection if the articles which are the “Stridhan” of the Respondent No.2 and which are taken possession of by the Police are handed over to the Respondent No.2, a no objection to the said effect would be filed in the Family Court in Application No.381/N/2013. Statement accepted. The learned counsel Mrs. Sonal Parab states that vakalatnama would be filed during the course of the present week.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]