

SAS

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

CRIMINAL WRIT PETITION NO.5101 OF 2017

Farheen Abdul Rashid Halari ..Petitioner.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.P.R.Dave for the Petitioner.

Mrs.Anamika Malhotra, APP for Respondent No.1-State

Mr.Tushar M.Kadam for Respondent No.2.

***CORAM: R.M.SAVANT AND
NITIN W.SAMBRE, JJ.***

DATE : FEBRUARY 2, 2018

PC.:-

At the outset, the learned counsel for the Petitioner seeks leave to amend prayer clauses (a) and (b) so as to correct the Criminal Case number pending before the trial Court. Leave granted. Amendment to be carried out forthwith.

2. This Writ Petition has been filed for quashing of the proceedings in Criminal Case No.810/PW/2013 pending before the learned Metropolitan Magistrate, 22nd Court, Sewree Mumbai arising out of F.I.R. No.119/2013 registered with Pydhonie Police

Station, Mumbai for offences punishable under sections 498(A), 323, 506 (ii), 406 read with 34 of the Indian Penal Code.

3. The First Informant i.e. the Petitioner herein and Respondent No.2 are wife and husband respectively. The F.I.R. seems to have been filed on account of the matrimonial disputes between the parties. In the context of the reliefs sought in the above petition, the averments made in paragraphs 3 and 4 of the above Petition assumes importance and are reproduced hereinunder:-

“3. The Petitioner submits that after the above stated incident, the Petitioner started residing at her parental house but thereafter because of the intervention of elderly persons of the family the relation between the Petitioner and Respondent have come closed and both the parties have sorted out their dispute and differences amicably.

4. The Petitioner submits that she do not wish to proceed with her case pending before the Trial Court against the Respondent Nos.2 to 5 as from last two years she is staying with her husband i.e. Respondent No.2 and at present the relationship between the Petitioner and her in-laws are quite good and at present there are no any dispute and

differences between them. ”

4. Hence, the said averments disclose that the parties have amicably resolved their disputes on account of intervention of elders in the family and that the Petitioner and Respondent No.2 are residing together and, therefore, the Petitioner does not desire to proceed with the said case.

5. The Petitioner is personally present before the Court, she is identified by the learned counsel Mr. Dave. She is also identified by her Aadhar Card bearing No.833854851239. When put in the box and queried, she states that she has read and understood the contents of the Petition and that she does not desire to proceed with the case in question in view of the settlement of the dispute between the parties. The Respondent No.2 i.e. the husband of the Petitioner is also present in the Court, he is identified by the learned counsel Mr.Tushar Kadam, he is also identified by his Aadhar Card bearing No.168428047269. When put in the box and queried, he states that the Petitioner and he are now residing together and that there are no disputes existing between them. In the light of the averments in the Petition and

also having regard to the statements made by the Petitioner when put in the box on query, the same leads to the conclusion that the parties have amicably settled the dispute and the Petitioner is, therefore, not desirous of proceeding with the case in question. Having regard to the judgments of the Apex Court in the matter of *Gian Singh V/s. State of Punjab*¹ and *Narinder Singh & Ors. V/s. State of Punjab & Anr.*², there is now no impediment in allowing the above Criminal Writ Petition. No useful purpose would be served in keeping the proceedings. The above Criminal Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a).

6. Since the machinery of this Court has been utilised by the parties for settling their disputes, in our view, it would be just and proper that the parties deposit costs of Rs.10,000/- with the Maharashtra Legal Aid Fund within 6 weeks from date, receipt to be obtained and filed in the Registry.

(NITIN W.SAMBRE, J.)

(R.M.SAVANT, J.)

1 (2012) 10 Supreme Court Cases 303

2 2014 AIR SCW 2065