

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5192 OF 2017**

Dinesh Keshav Solaskar & Ors

..Petitioners

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. Sushil Inamdar for the Petitioners

Mr. Dhiraj Gole for the Respondent No.2

Mrs. A. S. Pai Addl PP for the Respondent No.1 State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ**

DATE : 8th MARCH, 2018

P.C.

1 The above Writ Petition has been filed for quashing of the proceedings arising out of the FIR No.174 of 2016 for the offences punishable under Sections 498A, 323, 504 and 34 of the IPC. The Respondent No.2 herein who is the first informant, is the wife of the Petitioner No.1 herein and the FIR seems to have arising out of the matrimonial disputes between the parties. The other Petitioners are the father, mother and brothers of the Petitioner No.1. It seems that the parties were before the Family Court in Marriage Petition No.F-2027 of 2017 which was filed for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act. In the said Petition a decree of divorce came to be passed on 12-2-2018 by the Learned Judge of the Family Court No.5, Mumbai. By the said decree the marriage between the Petitioner No.1 and the Respondent No.2 came to be dissolved. The Respondent No.2 has filed an affidavit affirmed in this Court today i.e. 8-3-

2018. In the context of the present Petition paragraph 5 of the said affidavit is material and is reproduced herein under:

5. I say that finally on 12-2-2018 the Learned Family Court 5 has passed the decree of divorce and since then nothing is left to claim against each other as Petitioners as well as myself i.e. Respondent No.2 has no any claim left, no grievance left and mutually seeks to quash and set aside the FIR No.174/16, which came to be registered with Respondent No.1 u/s 498A, 323, 504 and 34 of the Indian Penal Code, 1860 against the Petitioners in pursuance of complaint filed by me.

2 The Petitioners have also filed an affidavit also bearing today's date and also affirmed today in this Court. Paragraph 5 of the said affidavit is eloquent as regards the settlement arrived at between the parties as a result of which the Petitioner No.1 and the Respondent No.2 are seeking quashing of the proceedings by mutual consent. The said paragraph 5 reads thus:

5. The Petitioners state that finally on 12-2-2018 the Learned Family Court 5 has passed the decree of divorce and since then nothing is left to claim against each other as Petitioners as well as myself i.e. Respondent No.2 has no any claim left, no grievance left and mutually seeks to quash and set aside the FIR No.174/16, which came to be registered with Respondent No.1 u/s 498A, 323, 504 and 34 of the Indian Penal Code, 1860 against the Petitioners in pursuance of complaint filed by the Respondent No.2.

3 Hence in the passing of the decree in the Petition for divorce by mutual consent filed by the parties as also on account of the affidavits filed by

the Respondent No.2 and the Petitioners respectively, the same leaves no room for doubt that the parties have amicably resolved their dispute as a result of which the Respondent No.2 does not desire to proceed with the case in question arising out of the FIR registered by her under Section 498A etc.,

4 The Respondent No.2 Vrushali Dinesh Solaskar is personally present in Court. She is identified by the Learned Counsel Mr. Dhiraj Gole. She is also identified by her Adhar Card No.541874928322 which is in her maiden name Vrushali Vasant Utekar. When put in the box and queried she accepts the factum of a decree of divorce by mutual consent being passed by the Family Court. She further states that she has read the affidavit which is tendered across the bar by the Learned Counsel today and that the contents of the said affidavit are acceptable to her and she has signed the said affidavit on her own free will and volition.

5 The Petitioner No.1 Dinesh Solaskar is also personally present in Court. He is identified by the Learned Counsel Mr. Inamdar. He is also identified by his Adhar Card No.226147306799. When put in the box and queried he reiterates the fact of a decree of divorce by mutual consent being passed by the Family Court. He further states that he has read the joint affidavit filed by the Petitioners and the contents of the said affidavit are acceptable to him. Having regard to the statements made by th Petitioner

No.1 and the Respondent No.2, the same lead to a conclusion that the parties have settled their dispute mutually. Having regard to the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr**², there is no impediment in allowing the above Writ Petition. No useful purpose would be served in keeping the proceedings pending, the above Writ Petition is accordingly allowed and made absolute in terms of prayer clause (a). The above Writ Petition is accordingly disposed of.

6 The decree passed by the Family Court dated 12-2-2018 is taken on record and marked as “X” for identification.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]

¹ (2012) 10 Supreme Court Cases 303

² 2014 AIR scw 2065