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

CRIMINAL APPLICATION NO.1263 OF 2017

Ganesh Tulsiram Nikumbh an Ors. ...Applicants
Versus
Pallavi Ganesh Nikumbh and Anr. ...Respondents

Mr.Mohammed Umar Z. Kazi, for the Applicants.

Mrs.S.D.Shinde, A.P.P for the Respondent-State.

Mr.Ahmed Mujtaba F. Kazi, for the Respondent No.1.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 27th JULY, 2018

P.C. :

1. The above Application has been filed for quashing of the proceedings being R.C.C. No.434 of 2016, pending on the file of the learned 5th Joint Civil Judge Junior Division and learned Judicial Magistrate First Class, Kalyan. The said proceedings are arising out of the C.R. bearing No.I-13 of 2016 registered with Kalyan Taluka Police Station, Kalyan, for the offences punishable under Sections 498(A), 406, 323, 504, 506 and 34 of the Indian Penal Code.

2. The said FIR has arisen on account of the marital discord between the Applicant No.1 and the Respondent No.1, who are husband and wife. The Respondent No.1 – Pallavi Ganesh Nikumbh has filed an affidavit bearing today date and affirmed before the Notary Mrs.Aliya N. Pathan on 27th July, 2018 and bears the Notarial Registration No.31211. In the context of the relief sought in the above Application, paragraph 11 of the said affidavit is material and is reproduced herein under:-

“11. I say and submit that I have no objection if this Hon'ble Court allows the application preferred by the applicants and quashes the FIR and the subsequent proceedings initiated at the instance of the FIR registered by me with the police authorities of Kalyan Taluka Police Station which is registered vide CR no.I-13 of 2016 for offences punishable under section 498(A), 406, 323, 504, 507 r/w 34 of IPC.”

3. The Respondent No.1 - Pallavi Ganesh Nikumbh is also personally present in Court. She is identified by the learned Counsel Mr.Ahmed Mujtaba F. Kazi. She is also identified by her Aadhaar Card bearing No. 3235 8540 7978. When put in the box and queried, she states that she has read and understood the contents of the affidavit filed on her

behalf today. She further states that she has filed the affidavit in view of the settlement between the parties. She lastly states that she has filed the said affidavit of her own free will and volition.

4. The Applicant No.1 – Ganesh Tulsiram Nikumbh is also personally present in Court. He is identified by the learned Counsel Mr.Mohammed Umar Z. Kazi. He is also identified by his Pan Card bearing No. ADWPN5000G. When put in the box and queried, he accepts the factum of settlement between him and the Respondent No.1, as a result of which, the Respondent no.1 is not desirous of proceeding with the case in question.

5. Having regard to the affidavit filed by the Respondent no.1 and the statements made by the Respondent no.1 and the Applicant No.1 when put in the box and queried, the same indicate that the parties have settled their dispute as a result of which the Respondent No.1 is not desirous of proceeding with the case in question.

6. 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, no useful purpose would be served in keeping the proceedings pending.

7. The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause 16(i). Resultantly the proceedings being R.C.C. No.434 of 2016 stands quashed and set aside.

8. The above Criminal Application is accordingly disposed of.

9. In the facts and circumstances of the case, where the machinery of this Court is utilized for settling the dispute between the parties, the Applicant No.1 to deposit costs of Rs.10,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065