

Rane

* 1/5 * WP-5353-2017 (SR.907)
Thursday, 11.1.2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5353 OF 2017

Mr. Ronak Dhirajlal Shah
and Ors.

....Petitioners

V/s.

Dipika Ronak Shah and Ors.

....Respondents

* * * * *

Mr. Jitendra Gaikwad, Advocate for the petitioners.

Mr. S.U. Marwadi a/w. Mr. R.P. Thakkar, Advocate for
respondent no.1.

Mr. K.V. Saste, Addl. P.P. for the State.

CORAM :-

R.M.SAVANT, &

SANDEEP K. SHINDE, JJ.

DATE :-

11TH JANUARY, 2018.

P.C. :-

1. This petition is filed for quashing of Crime No. 230 of 2010 arising out of the matrimonial dispute, registered with Bhoiwada Police Station, Mumbai for the offences punishable under Sections 498A, 406 read with

Section 34 of the Indian Penal Code at the instance of respondent no.1 herein.

2. That pending proceedings in Criminal Anticipatory Bail Application No. 1944 of 2016, the parties have arrived at settlement and the consent terms were entered into on 18th December, 2017. Clause-5 of the said consent terms dated 18th December, 2017 is relevant and is reproduced hereunder :-

“5. It is agreed in between the parties that the Dipika Ronak Shah shall give consent and no objection along with the Affidavit in the proposed Writ Petition before this Hon'ble Court by the Ronak Dhirajlal Shah, Dhirajlal Umarshi Shah and Premila Dirajlal Shah for quashing of the C.R. No. 230 of 2016 registered with the Bhoiwada Police Station, Mumbai for offences punishable U/s. 406 and 498-A r/w. 34 of the Indian Penal code. It is agreed in between the prties that Ronak Dhirajlal Shah and Dhirajlal Umarshi Shah shall pay amount of Rs.6,00,000/- (Six Laks only) (out of the amount of Rs.12,00,000/- stated in Clause 2 III of present Consent Terms) at the

time of quashing of the C.R. No.230 of 2016 registered with the Bhoiwada Police Station, Mumbai. It is further agreed that the Dipika Ronak Shah shall not have any claim of whatsoever nature in the said proposed proceedings in lieu of aforesaid terms herein.”

3. That in view of the aforesaid clause, the complainant, who is respondent no.2 herein has filed an Affidavit dated 20th December, 2017 and given her No-Objection and consent for quashing Crime No. 230 of 2016 registered against the respondents under Section 498A, 406 read with Section 34 of the Indian Penal Code. That in terms of para no.7, of the Affidavit dated 20th December, 2017 respondent no.2 has given her No-Objection for quashing the Crime No.230/2016.

4. That respondent no.2 is present in the Court. She is identified by Learned Counsel, Mr. S.V. Marwadi. She is also identified by her Pan Card bearing No. AZMPB 4964D. When put in the box and queried, she admits the

contents of the Affidavit and she has no objection for quashing the subject FIR.

5. That in terms of Clause no.5 of the consent terms, the Demand Draft in the sum of Rs.6,00,000/- is tendered by petitioner no.1 to the respondent no.2, which she has accepted. A zerox copy of the said Demand Draft is taken on record and marked 'X' for identification.

4. Petitioner no.1, Ronak Dhirajlal Shah is present in the Court. He is identified by his Advocate, Mr. Jitendra Gaikwad. He is also identified by his Pancard bearing No. BCIPS9087G. When queried, petitioner no. 1 admits and accepts the settlement arrived at between him and respondent no.2.

5. In view of the facts and circumstances of the case and in view of the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab, reported in (2014) 6 SCC 466**, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian**

Singh v. State of Punjab reported in (2012) 10 SCC 303 would also lead to the same conclusion. That even otherwise, no useful purpose would therefore be served by keeping the proceedings pending. The petition is allowed in terms of prayer clause (b).

6. The petitioner and respondent no.1 is directed to deposit a sum of Rs.10,000/- each total amounting to Rs.20,000/- with the Maharashtra Police Welfare Fund in the office of the Commissioner within a period of 4 weeks from today.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)