

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5387 OF 2017

Bhavin Bhupendra Shah & Ors.Petitioners
V/s.
The State of Maharashtra & Anr.Respondents

Mr. K.P.Dave, Advocate for Petitioners.
Mr. A.R.Kapadnis, APP for the Respondent-State.
Mr. Sanjay Nerulkar, Advocate for Respondent No.2.
Petitioner No.1 and Respondent No.2 present.

**CORAM :- R.M.SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 11TH JANUARY, 2018.

PC. :-

The above Petition has been filed for quashing of the FIR being C.R.No.618 of 2017 registered with Goregaon Police Station on 21.11.2017 for the offences punishable under Sections 498A, 377, 324, 354, 406 read with Section 34 of the IPC. The said FIR has been registered on account of the matrimonial disputes between the parties. The First Informant, i.e., the Respondent No.2 herein is the wife of the Petitioner No.1-Bhavin Bhupendra Shah. The Respondent No.2 has filed an affidavit dated 19.12.2017 affirmed before Shri S.M.N.Naqvi, Notary, Government of India bearing Notarial Registration No.262 dated 19.12.2017 and

appearing at Sr.No.747 Page 61. In the context of the reliefs sought in the present Petition, paragraph 2 of the said Affidavit is material and is re-produced hereunder:

“2 I further say that I have no objection for quashing of the said FIR and give my consent for quashing of the same as the dispute is resolved. I am giving the consent without any coercion, misrepresentation, inducement or intoxication. I have submitted the letter of withdrawal of allegations against husband and relatives to the Goregaon Police Station and have also executed this presence for the purpose of submitting the same for quashing of the above said F.I.R.”

2 The said Affidavit, therefore, indicates that the disputes between the parties have been resolved and, therefore, the First Informant, i.e., the Respondent No.2 does not desire to proceed with the FIR. The Respondent No.2 is personally present in the Court. She is identified by the learned counsel Mr. Sanjay Nerulkar. She is also identified by her Adhar Card bearing No.2933 6181 2361. When put in the box and queried, she reiterates what has been stated in the affidavit and states that she does not desire to proceed with the FIR and she has filed the affidavit of her own free will and volition and that the correction made in the affidavit to incorporate the words **“Husband and Relatives”** is also acceptable to her. She further

states that she is now residing with her husband, i.e., the Petitioner No.1. The Petitioner No.1, i.e., the husband is also personally present in the Court. He is identified by the learned counsel Shri Dave. He is also identified by his Adhar Card bearing No.9282 8130 0543. He states that the disputes between the parties have been settled and that the First Informant, i.e., the Respondent No.2 is residing with him presently. In view of the affidavit which is filed by the Respondent No.2, i.e., the First Informant and in view of the statements made by the First Informant and the Petitioner No.1 in the box and having regard to 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. No useful purpose would therefore be served by keeping the proceedings pending. The Petition is, therefore, allowed and made absolute in terms of prayer clause (c). The Petition is, accordingly, disposed of.

3 Since machinery of this Court is used to settle the disputes between the parties, the Petitioner No.1 to pay the cost of

Rs.5,000/- to be deposited with the Maharashtra Legal Aid Fund
within a period of four weeks from today.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)