

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

CRIMINAL APPLICATION NO.1327 OF 2017

Sudeep R. Pillai and anr. : Applicants.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. J M Puranik for the Applicants.
Mr. A R Kapadnis, APP for the Respondent/State
Mr. A V Chatuphale for the Respondent No.2.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.**
DATE : 12th JANUARY 2018

P.C.

1 At the outset the learned counsel for the Applicants seeks leave to amend so as to correct the case number mentioned in paragraph No.18 on page 9 of the above Criminal Application. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing the Criminal Case No.RCC/274 of 2015 pending on the file of the learned JMFC, Vashi, Navi Mumbai. The said case is arising out of the FIR No.I-46 of 2015 registered with the Nerul Police Station, Navi Mumbai for the offences punishable under Section 498-A, 406, 323, 504, 506 and 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

3 The said FIR was a consequence of the marital disputes between

the parties i.e. the Applicant No.1 and the Respondent No.2. The parties were before the Family Court by way of Marriage Petition No.589 of 2015 filed by the Respondent No.2 herein for divorce under Section 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act, 1955. In the said Marriage Petition the parties were referred to mediation pursuant to which the parties arrived at an amicable settlement which is reduced into writing which is at Exhibit F on page Nos. 92/93 of the compilation of the above Criminal Application. In terms of the relief sought in the present Criminal Application Clause (5) of the said terms is material. In terms of the said Clause (5), the Respondent No.2 has agreed to the exoneration of the Applicant No.1 from the said Criminal Case No.274 of 2015, in furtherance of which he is agreed to file an appropriate application.

4 The Respondent No.2 has filed "Consent Affidavit" bearing today's date i.e. 12/01/2018. Clause (3) of the said Consent Affidavit assumes importance in the context of the present Criminal Application and is reproduced herein under :-

"3 I say that in view of the Consent Terms, we have also decided to withdraw all the allegations against each other and the complaints including the FIR. I, therefore, humbly submit that the FIR No.I-46/2015 registered with Nerul, Navi Mumbai Police Station as against the Applicants abovenamed may kindly be quashed and set aside and consequently Criminal Case being RCC/274/2015 pending before the learned Judicial Magistrate, First Class, Vashi, Navi Mumbai may kindly be quashed and set aside to meet the ends of justice."

Hence by virtue of Clause (3) of the Consent Affidavit, the Respondent No.2 has agreed that in view of the Consent Terms filed between the parties, the FIR No.I-46 of 2015 registered with the Nerul Police Station, Navi Mumbai be quashed and set aside.

5 The Respondent No.2 Smt. Shreevidya S Pillai is personally present in Court. She is identified by the learned counsel Shri. A V Chatuphale. She is also identified by her Aadhar Card bearing No.4448 5328 1334. When put in the box and queried, she accepts the fact that the parties have settled the matter in the Family Court. She further accepts the statements made in the Consent Affidavit bearing today's date i.e. 12/01/2018 which has been tendered across the bar by the learned counsel Shri. A V Chatuphale.

6 The Applicant No.1 Sudeep Pillai is personally present in Court. He is identified by the learned counsel Shri J M Puranik. He is also identified by his Aadhar Card bearing No.6056, 2343 8621. When put in the box and queried, he accepts the fact that a settlement has been arrived at between the parties in the Family Court which has been reduced into writing which is at page Nos.92/93 of the above Criminal Application. He further states that the Consent Affidavit has been filed by the Respondent No.2 pursuant to the said settlement.

7 It is required to be noted that the Accused No.2 – Ravindran Pillai has expired on 28/12/2015 and his death certificate is annexed at Exhibit E on page 91 of the above Criminal Application.

8 Having regard to the Consent Terms and the Consent Affidavit filed by the Respondent No.2 coupled with the statements made by the parties in the box, as also having regard to the judgments of the Apex Court in matter of Gian Singh Vs. State of Punjab and Anr reported in (2012) 10 SCC 303 and Narinder Singh and ors v/s. State of Punjab and anr. reported in 2014. AIR SCW 2065, there is no impediment in allowing the above Criminal Application. No useful purpose would be served in keeping the proceedings pending. The above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

9 The Applicant No.1 and the Respondent No.2 to pay costs of Rs.10,000/- each to the Maharashtra Police Welfare Fund in the office of Commissioner of Police, Mumbai within a period of six weeks from date. The receipts to be obtained and filed in the Registry of this Court.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]