

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 1178/2017

(CHANDNI SHABBIR ANSARI **VERSUS** THE STATE OF MAHARASHTRA, THR. PSO PS KHAPARKHEDE
 & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri S. Singha, counsel for the petitioner.
 Shri S.S. Doifode, Additional P.P. for the R-1.
 Shri J.D. Bastian, counsel for the R-2.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : FEBRUARY 23, 2018.

By this criminal writ petition, the petitioner seeks a recall of the order dated 29.09.2017 in Criminal Application (APL) No.667 of 2017.

The petitioner was married to the respondent no.2 in the year 2009. The respondent nos.3 to 7 are the in-laws of the petitioner. A first information report was registered against the respondent nos.2 to 7 on a complaint lodged by the petitioner for the offences punishable under Sections 498-A, 504, 506 read with Section 34 of the Penal Code. Offences were also registered against the respondent nos.2 to 7 under the provisions of Sections 66-B and 67-A of the Information Technology Act. Criminal application bearing APL No.667 of 2017 was filed by the petitioner as well as the respondent nos.2 to 7 for quashing and setting aside the first information report registered against the respondent nos.2 to 7. It was stated in the application that the parties had settled the matter and the petitioner was ready to reside with the respondent nos.2 to 7 in the matrimonial house, considering the welfare of the children. On the basis of the statements made by the petitioner and the respondent nos.2 to 7 in the said criminal application, we had

quashed the first information report registered against the respondent nos.2 to 7, with consent.

It is the case of the petitioner that on 29.09.2017, the petitioner was under an impression that the respondent nos.2 to 7 would take her to the matrimonial house in Madhya Pradesh but they did not do so. It is stated that on 30.09.2017, the petitioner appeared before the Anjuman Committee members where the respondent no.2 was present on behalf of the respondent nos.2 to 7. It is stated that the respondent no.2 informed the petitioner that the respondents are not willing to take her back to the matrimonial home and he needs some time to accommodate the petitioner in some other place. It is the case of the petitioner that she went to Shobhapur where the matrimonial house is located with a view to reside with the respondent nos.2 to 7 but she was not permitted to reside with them. It is stated that apart from refusing to permit the petitioner to reside in the matrimonial house, the respondent nos.2 and 3 have threatened the petitioner that her obscene photographs would be published or circulated. It is stated that the respondent nos.2 to 7 had only made a show that they would permit the petitioner to reside in the matrimonial house. It is stated that the statement made by the respondent no.2 in this Court on 29.09.2017 was false as he had never intended that the petitioner should reside in the matrimonial home. In this background, the petitioner has sought for the recall of the order dated 29.09.2017 in Criminal Application (APL) No.667 of 2017.

We have heard the learned counsel for the parties and have also talked with the petitioner and the respondent no.2 in the Chamber. We could gauge from the statements made by the petitioner and the respondent no.2 that the petitioner was not permitted to reside in the matrimonial home. It appears that only a

show was made by the respondent nos.2 to 7 that the matter was settled between the petitioner and the respondent nos.2 to 7 and that the respondent no.2 and the petitioner would reside together in future. Since it is stated in the affidavit-in-reply filed on behalf of the respondent no.2 in this petition that he had even contacted the petitioner on cellphone but she was not ready to join his company, we had asked the respondent to show his cellphone to consider as to how many times he had made the calls to the petitioner. On this, he has stated that he does not know the cell number of the petitioner. He then stated that he was not contacting the petitioner but was contacting the petitioner's father on the cellphone. When we had asked him when he has lastly contacted the father of the petitioner, he stated that he had lastly contacted the father of the petitioner on 01.11.2017. From the aforesaid statements, it appears that the respondent no.2 is not desirous of telling the truth to the Court. It further appears that he had never called the petitioner as he does not even possess the cell number of the petitioner. In this situation, it is difficult to believe that he was ready and willing to reside with the petitioner in the matrimonial home. In the peculiar set of facts and in the interest of justice, we wish to recall the order dated 29.09.2017.

Hence, for the reasons aforesaid, the criminal writ petition is allowed. The order dated 29.09.2017 in Criminal Application (APL) No.667 of 2017 is recalled.

With the disposal of the writ petition, Criminal Application (APPW) No.279 of 2017 also stands disposed of.

Order accordingly.

JUDGE

JUDGE