

***CRIMINAL WRIT PETITION NO.5323 OF 2019***  
***(For Quashing by consent of the parties)***

Ms. Shraddha S. Vavhal for the Respondent No. 2

CORAM : REVATI MOHITE DERE &  
PRITHVIRAJ K. CHAVAN, JJ.  
WEDNESDAY, 14<sup>th</sup> DECEMBER 2022

P.C :

1       Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the  
consent of the parties and is taken up for final disposal. Learned  
A.P.P waives notice on behalf of the respondent No.1–State.  
Ms. Vavhal waives notice on behalf of the respondent No.2.

3           By this petition preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR registered vide C.R. No. 73/2016 with the Oshiwara Police Station, Mumbai, for the alleged offence punishable under Section 498A of the Indian Penal Code and consequently, the proceeding being CC No. 1018/PW/2017 pending before the Railway Mobile Court, Andheri. Quashing is sought on the premise that the parties have settled their dispute amicably.

4           Perused the papers. The petitioner is the husband of the respondent No. 2. According to the respondent No. 2, her marriage was solemnized with the petitioner at Jogeshwari, Mumbai on 17.07.2003 as per Muslim rites and rituals. From the said wedlock, the couple have two children, aged 9 and 7 years. According to the respondent No. 2, as she was ill-treated and harassed by the petitioner, she lodged the aforesaid FIR, as against the petitioner alleging the aforesaid offence. After investigation, charge-sheet was

filed in the said case and the case is presently pending before the learned Judge, Railway Mobile Court, Andheri, Mumbai being CC No.1018/PW/2017.

5           In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and agreed to divorce each other, by mutual consent. Accordingly, on 09.02.2018, they filed for divorce by mutual consent (Divorce of Mubarat) on certain terms and conditions, set out therein. As per the consent terms, permanent custody of the children is to be with the respondent No. 2. Both parties have agreed to withdraw all the proceedings against each other. We are informed that respondent No. 2 is remarried and as such, she has waived her right to seek maintenance from the petitioner.

6           Learned counsel for the respondent No. 2 has filed an affidavit of the respondent No. 2 dated 16.10.2019 duly affirmed before the Notary. To the said affidavit, is annexed a photocopy of the Aadhar Card of the respondent No. 2, duly attested by her. In

the said affidavit, the respondent No. 2 has stated that the parties are divorced by mutual consent and that she has waived her right to claim any alimony or maintenance from the petitioner. She has further given her no objection to the quashing of the said FIR. Learned A.P.P has verified her Aadhar Card.

7           The respondent No. 2 is present in Court. She is identified by her counsel. She reiterates what is stated by her in her affidavit.

8           Considering the nature of dispute, relation between the parties, the amicable settlement arrived at between the parties, the affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*<sup>1</sup> and *Narinder Singh & Ors. vs. State of Punjab & Anr.*<sup>2</sup>, there is no impediment in allowing the petition.

9           The petition is accordingly allowed. The FIR bearing

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1   (2012) 10 SCC 303

2   (2014) 6 SCC 466

C.R. No. 73/2016 registered with the Oshiwara Police Station, Mumbai, and consequently, the proceeding being CC No. 1018/PW/2017 pending before the Railway Mobile Court, Andheri, are quashed and set-aside.

10            Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

11            All concerned to act on the authenticated copy of this order.

**PRITHVIRAJ K. CHAVAN, J.**

**REVATI MOHITE DERE, J.**