

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

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CRIMINAL APPLICATION NO.529 OF 2023

Mr. Jitendra Babulal Kothari ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Ms. Anita Bafna, for the Applicant.
Ms. Sharmila S. Kaushik, APP for the Respondent/State.
Mr. Durgaprasad Halwai, for the Respondent No.2.
Respondent No.2 in person present.
Mr. Prashant Kumbhar, PSI, Bhandup Police Station – present.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.**

DATE : 3rd OCTOBER, 2023

PC.

1. The respondent No.2 was married to the applicant on 29th November, 2017 at Surat.
2. It appears that the respondent No.2 parted the company of the applicant out of matrimonial discord and resulting into registration of offence being Crime No.107 of 2019 registered with Bhandup police station for the offence punishable under Sections 498A, 377, 406, 323, 504 and 506 of the IPC.
3. After the registration of the aforesaid offence on 1st March, 2019, there appears to be settlement between the parties

and accordingly in Family Suit No.1017 of 2022, the consent decree for divorce under Section 13-B of the Hindu Marriage Act came to be passed on 6th March, 2023.

4. As a sequel of above, the parties have agreed that the respondent No.2/complainant shall be extending consent for quashing of the aforesaid offence.

5. It has been categorically stated about the consent being extended by the respondent No.2/complainant for quashing of the Crime No.107 of 2019 including the charge-sheet. It is also stated that the consent decree for divorce has been passed by the Family Court, Surat and the respondent No.2/complainant has received an amount of Rs.18,00,000/- towards permanent alimony. In this background, we requested learned APP to interact with the respondent No.2/complainant so as to confirm the aforesaid factual position. The respondent No.2/complainant is identified by her lawyer through her identity card i.e. Aadhaar Card. The respondent No.2/complainant specifically acknowledges receipt of one time alimony of Rs.18,00,000/-. In response to the Court's query, respondent No.2/complainant submits that she is extending consent for quashing out of her own free will as the parties have divorced pursuant to the provisions of decree passed under Section 13-B of the Hindu Marriage Act.

6. In the aforesaid background, having regard to the willful

consent extended by the respondent No.2/complainant and the parties having separated in view of decree of divorce by consent under Section 13-B of the Hindu Marriage Act, no purpose will be served in keeping the criminal prosecutions pending against the applicant. A support to the above observation can be drawn from the judgments of Apex Court in the matter of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***(2012)10 SCC 303*** and ***Narinder Singh & Ors. Vs. State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***.

7. That being so, the application stands allowed in terms of prayer clause (a) having regard to the consent extended by the respondent No.2/complainant subject to payment of cost of Rs.25,000/- to be paid by the applicant to the Pasaydan Balvikas Foundation (*Bank Name: Central Bank of India, A/C No.3775403155, IFSC Code: CBIN0285070*) within six weeks and receipt of payment of cost be produced with the Registry within same period, failing which the order of quashing the criminal proceedings against the applicant shall stand recalled and this Court will be constrained to proceed against the applicant in accordance with law.

8. The application as such stands disposed of.

[N. R. BORKAR, J.]

[NITIN W. SAMBRE, J.]