

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1586 OF 2018**

Rakesh Dundappa Ghatekari & Ors.	...Petitioners
Versus	
Poonam Rakesh Ghatekari & Anr.	...Respondents

Mr. Mohit C. Shamdasani I/b Mr. R. D. Motkari for the Petitioners

Mrs. Poonam A. Tate for the Respondent No. 1

Mrs. P. P. Shinde, A.P.P for the Respondent No.2-State

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
FRIDAY, 29th JUNE, 2018***

P.C. :

Mentioned. Not on board. Taken on board.

1 The above Writ Petition has been filed for quashing of the proceedings being CC No. 769 of 2016 pending on the file of the learned Additional Chief Metropolitan Magistrate, 12th Court, Bandra, Mumbai. The said case has arisen out of C.R. No. 94 of 2014 for the offences punishable under Sections 498A, 323, 504, 506 and 34 of the Indian Penal Code. The said FIR has arisen out of the marital discord between the Petitioner No. 1 and the Respondent No. 1, who at the relevant time, were husband and wife. The parties were before the

Family Court, Mumbai in Marriage Petition No. A-2673 of 2013 which was filed by the Petitioner herein for divorce on the ground of nullity. In the said Petition, the parties were referred to the Marriage Counsellor before whom the parties arrived at a settlement which was reduced into writing by way of Consent Terms. In terms of the said Consent Terms, the parties have decided to seek divorce by mutual consent. Insofar as the present proceedings are concerned, it is agreed by the Respondent No. 1 that she will withdraw the case registered by her under Section 498A after the payment of the balance amount of Rs. 5 lakhs.

2 The Respondent No.1 has filed an affidavit bearing today's date and affirmed before the Notary Mrs. Aliya N. Pathan. The said affidavit bears the notarial registration No. 30659 dated 29th June 2018. In paragraph 3 of the said affidavit, she has stated that she is not desirous of prosecuting the instant case which is pending before the learned Additional Chief Metropolitan Magistrate, 12th Court, Bandra, Mumbai. In paragraph 4, she has stated that she would withdraw all other cases as well. The Respondent No.1 i.e. the first informant, is

personally present in Court. She is identified by the Petitioner as the Respondent No. 1, being his wife. She is further identified by her Aadhar Card bearing No. 522769924149. The said Aadhar Card is in her maiden name i.e. Poonam Ajit Tate. When put in the box and queried, she states that she has read and understood the contents of the affidavit dated 29th June 2018. She accepts the factum of settlement between the parties and the filing of the Consent Terms in the Family Court, Bandra, Mumbai. She lastly states that she has filed the said affidavit of her own will and volition and that she does not desire to proceed with the case in question in view of the settlement between the parties.

3 The Petitioner No.1-Ramesh Dundappa Ghatekari is personally present in Court. He is identified by his Aadhar Card bearing No. 545940580063. When put in the box and queried he accepts the factum of settlement between him and the Respondent No.1. He further states that he has deposited the amounts as contemplated by the Consent Terms in the Family Court, Bandra, Mumbai.

4 Having regard to the Consent Terms filed in the Family Court at Bandra, Mumbai, the application for a decree of divorce, which the parties have sought by mutual consent, the statements made by the Respondent No. 1 and the Petitioner No. 1 when put in the box and queried, the same indicate that the parties have settled their dispute and as a result of which, the Respondent No. 1 does not desire to proceed with the case in question.

5 A useful reference could be made to the judgments of the Apex Court in the matters of ***Gian Singh vs. State of Punjab & Anr.***¹ and ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², which would lead to a conclusion that no useful purpose would be served in keeping keeping the proceedings in question pending in view of the settlement between the parties. The above Petition is, therefore, required to be allowed and is accordingly allowed and made absolute in terms of prayer clause (a).

1 (2012) 10 SCC 303

2 2014 AIR SCW 2065

6 In the facts and circumstances of the case, the Petitioner No.1 to deposit costs of Rs.3,000/- with the Kirtikar Law Library, High Court, Mumbai, within 6 weeks from date. Receipt to be obtained and filed in the Registry.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.