

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1972 OF 2016

1. Murtuza @ Mirza Gulzar Baig,
s/o Mirza Rauf Baig,
Age: 35 years, Occ: Driver,
R/o: Mirza Galli, Opposite State
Bank of Hyderabad, Ashti,
Tq. Ashti, Dist: Beed
2. Mirza Rauf Baig S/o Mirza Gul Baig,
Age: 68 years, Occ; Nil,
R/o: Mirza Galli, Opposite State
Bank of Hyderabad, Ashti,
Tq. Ashti, Dist: Beed.
3. Mirza Razzak Baig s/o Rauf baig
Age : 45 years, Occu. Driver,
R/o Azad Nagar, MIDC Road,
Ashti, Tq. Ashti, Dist. Beed.
4. Mirza Khadir Baig s/o Mirza Rauf Baig,
Age : 43 years, Occu. Driver,
R/o Mirza Galli Opposite State Bank of
Hyderabad, Ashti, Tq. Ashti, Dist. Beed.
5. Parveen W/o Mirza Khader Baig,
Age : 30 years, Occu. Household,
R/o Mirza Galli, Opposite State Bank of
Hyderabad, Ashti, Tq. Ashti, Dist. Beed.
6. Fauziya Sayyed w/o Salim Sayyed,
(Shaikh Fauziya w/o Shaikh Salim),
Age: 34 years, Occu. Nil,
R/o : Chandrabhaga Society, Dilip Nagar,
Park Site Vikhroli, Mumbai – 400079.

...APPLICANTS

Versus

1. The State of Maharashtra.

2. Ishrat w/o Mirza Gulzar Baig,
Age : 25 years, Occu. Household,
R/o at Present Rajmohammed Chowk,
Patoda, Tq. Patoda, Dist. Beed.. ...RESPONDENTS

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Mr. G.R. Syed, Advocate for applicants
Mr. S.P. Deshmukh, APP for Respondent No. 1
Mr. Pawan B. Pawar, Advocate for respondent No. 2

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**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 28th APRIL, 2017.

JUDGMENT : (Per : S.S. SHINDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally, by consent of parties.

2. This Court on 3rd April, 2017 passed following order:

"1. *Heard learned counsel appearing to the parties.*

2. *Pursuant to notices issued to the respondents, respondent No. 2 – Ishrat w/o Mirza Gulzar Baig has filed her affidavit. Paragraph No. 2 of affidavit in-reply filed by respondent No. 2 reads thus:*

"2. *That, the deponent submits that she had also filed proceeding for grant of maintenance vide Criminal Misc. Application No. 256/2015 before learned Judicial Magistrate First Class at Patoda Dist: Beed and in that matter because of the kind indulgence of the senior members in the family of both the parties matter is settled out of*

court. It is agreed between the parties that the marital tie between the applicant No. 1 and deponent will come to an end. The applicant No.1 will pay an amount of Rs.2,50,000/-towards full and final settlement as a onetime maintenance to the deponent. It is further agreed that the both the parties give consent in disposing off the matter filed against each other."

3. Applicant No. 1 - husband and respondent No.2 - wife are present before the Court. They are identified by their respective counsel. On interaction with respondent No. 2-wife, she stated that, it is her voluntary act to file affidavit-in-reply and enter into the compromise. The parties have settled their dispute out of Court with intervention of the senior members in the family.

4. We have also interacted with applicant No.1. On interaction with him, he stated that, pursuant to agreement/compromise between the parties, they have decided to live separately and he will pay Rs. 2,50,000/- to respondent No. 2 wife towards full and final settlement as onetime maintenance. Admittedly, as on today amount of Rs. 2,50,000/- is not yet paid by applicant No. 1-husband to respondent No. 2-wife.

5. The learned counsel appearing for applicant No. 1 - husband and respondent No. 2-wife pray for three weeks time.

5. List the matter on 24-04-2017.

6. We make it clear that, presence of parties, in particular, respondent No. 2-Ishrat w/o Mirza Gulzar Baig henceforth is not necessary. Liberty to the learned

counsel appearing for the parties to place on record additional document – receipt of payment of Rs. 2,50,000/- which would be paid by applicant No. 1 - husband to respondent No. 2 - wife.

3. Pursuant to said order, it is informed by learned counsel for the applicants and respondent No. 2 that amount of Rs. 2,50,000/- (Rupees Two Lakhs Fifty Thousand) is paid to respondent No.2.

4. In light of the above, in view of amicable settlement between the parties and keeping in view the exposition of law in the case of **Gian Singh Vs State of Punjab and another** reported in **(2012) 10 SCC 303**, continuation of further proceedings in RCC No. 121 of 2015 would be abuse of process of Court. In that view of the matter, we deem it appropriate to allow the application. Application is allowed in terms of prayer clause "B" and stands disposed of. Rule is made absolute accordingly.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S.S. SHINDE, J.]

MTK