

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

CRIMINAL WRIT PETITION NO.2704 OF 2021

Priya Sachin Zoting

...Petitioner

Versus

Sayali Vaibhav Patil @

Sayali Vijay Shinde & Anr.

...Respondents

Mr. A. Y. Sakhare, Sr. Advocate i/b Mr. R. S. Mirpuray for the Petitioner

Mr. Sachin R. Pawar for the Respondent No. 1

Ms. Veera Shinde, A.P.P for the Respondent No.2–State

The Respondent No.1 and her husband Mr. Vaibhav Patil (brother of the Petitioner) are present in Court

CORAM : REVATI MOHITE DERE, J.

MONDAY, 3rd JANUARY 2022

P.C. :

1 Heard learned counsel for the parties.

2 Considering the relations between the parties, vide order dated 4th August 2021, the parties were sent for mediation, as both parties i.e. the petitioner as well as the respondent No. 1 had agreed for the same.

Accordingly, on their request, Mr. Rajiv Patil, Senior Advocate was appointed as a Mediator.

3 The Mediator has submitted his report in a sealed envelope. The same is opened. The mediation report dated 14th December 2021 shows that the parties i.e. the petitioner and her brother-Vaibhav Patil (husband of respondent No.1) and respondent No.1 have amicably settled their dispute.

4 During the course of mediation, the respondent No. 1 and her husband-Vaibhav Patil i.e. the brother of petitioner also appeared before the Mediator. In the mediation, terms of settlement were arrived at by and between the petitioner, respondent No. 1 and her husband Vaibhav Patil i.e. the petitioner's brother. The terms of settlement, which are part of the mediation report, read as under :

“TERMS OF SETTLEMENT

The concerned parties after due deliberation have agreed to settle the dispute amicably and undertake to abide by and be bound by the following agreed terms & conditions the settlement agreement arrived at between the parties which are reduced in writing hereunder-

- (i) *The parties to Writ Petition No. 2704/2021 agree and confirm that Vaibhav Shivajirao Patil husband of the Sayali/wife be*

added as party Respondent to the Writ Petition No. 2704/2021. It is further agreed and confirmed that present terms of settlement shall be binding on all the parties who are signatories to the present settlement terms and mediation process.

- (ii) The wife Sayali hereby agrees and confirms that she has no claim and will make no claim in the future on any of the properties/assets/monies of the husband Vaibhav and shall have no rights, title or interest whatsoever in the movable & immovable properties of the husband Vaibhav. The husband Vaibhav hereby agrees and confirms that he has no claim and will make no claim in the future on any of the properties/assets/monies of the wife Sayali and shall have no right, title, interest whatsoever in the movable and immovable properties of the wife Sayali.*
- (iii) The wife Sayali and husband Vaibhav hereby agree and confirm that neither party shall make any claim, alimony or maintenance of any nature whatsoever against each other for any past, present and future period.*
- (iv) The wife Sayali and husband Vaibhav hereby agree that the husband Vaibhav shall return the bracelet as it is, which was given to him by Sayali in the marriage and wife Sayali shall return the Laptop as it is, given to her by the husband Vaibhav, on the date of Decree of Divorce by Mutual consent. Both the parties agree and confirm that all other belongings and articles are exchanged and neither the husband nor the wife shall claim any Amount, Ornament and/or Articles against each other and hereby expressly waive any such claim in the interest of settlement of dispute.*
- (v) Both the parties agree and confirm that though there is no joint bank account in the name of husband/Vaibhav and*

wife/Sayali, however if any such account is in existence, the same shall be closed within 15 days from the date of this Mediation Report presented to Honourable High Court, Bombay.

- (vi) *The parties shall co-operate with each other to apply for a Divorce by mutual consent which shall be sought expressly without payment of any monetary claim by both the parties.*
- (vii) *The wife Sayali shall withdraw her D.V. Case No. 1913/2021 (Sayali V/s. Vaibhav + 3) pending before Judicial Magistrate First Class, Pune against her husband-Vaibhav and his relatives within fifteen days from the date of presentation of this Mediation Report to the Hon'ble High Court, Bombay.*
- (viii) *It is agreed by and between the parties more particularly husband Vaibhav and wife Sayali and that the petitioner in Family Court matter i.e. husband Vaibhav and respondent in the same matter i.e. wife Sayali shall approach the Hon'ble Family Court and pray for the Divorce by Mutual Consent in H.M.P. Case No. 2395/2021. It is also agreed that husband Vaibhav shall file and/or move an application for converting the said petition before Family Court Mumbai into a case for Divorce by Mutual consent being a petition under section 13(b) of the Hindu Marriage Act within fifteen (15) days after withdrawal of the D.V. Case by wife Sayali and the respondent wife Sayali shall extend full co-operation by attending Family Court Mumbai and give unconditional consent for the said amendment application and shall give no objection/consent for passing a Decree of Divorce by Mutual Consent.*
- (ix) *It is also agreed that six month statutory period for Mutual Consent Divorce shall be waived by both parties.*

(x) *It is also agreed that as the matter is settled between husband Vaibhav and wife Sayali and parties to undertake to abide the condition herein. The present Mediation Report in terms of settlement be placed before the Honourable High Court and submit before the Honourable High Court to pass appropriate orders on this Mediation Report which shall be binding on all the parties.*

3. *If any of the party make a default or a breach of the terms and conditions/stipulations of the settlement agreement, the other side would be at liberty to initiate appropriate action in accordance with law.*

4. *Parties to this agreement, record the declaration that they have willfully and unconditionally agreed to each and every term recorded in the present agreement after carefully reading over and fully understanding and appreciating the consents, scope and effect thereof have entered into the same before the learned Mediator.*

5. *The settlement terms have been settled between the parties of their own freewill, wishes and consent and without there being any undue pressure, coercion, influence, misrepresentation, or mistake (both of law and facts), in any form whatsoever.*

6. *Party No.1, party No.2 and necessary party No.3 have and hereby do request the Mediator to record the terms and conditions of this agreement as full and final settlement of all the dispute between the parties and no claim shall lie between the parties inter se hereinafter.*

7. *It is agreed between the parties to request the Mediator to record terms of settlement/compromise between the parties and to submit report of Mediation to Hon'ble High Court, Bombay at the earliest.*

8. **MEDIATION SUCCESSFUL.”**

5 The said terms of settlement have been signed by the petitioner and her advocate, respondent No.1 and her advocate. The said terms of settlement have also been signed by Vaibhav Patil i.e. husband of respondent No.1 and brother of the petitioner. The said mediation report containing the terms of settlement, duly signed by the parties, is taken on record and is marked 'X' for identification.

6 In view of the aforesaid terms of settlement, the learned counsel for the petitioner is granted leave to amend to implead Vaibhav Patil as party-petitioner No.2. Amendment to be carried out forthwith. The respondent No. 1 has no objection to the same.

7 Both the parties i.e. the added petitioner No. 2 as well as the respondent No. 1 are present in Court and they re-iterate the terms of settlement as stated in the said mediation report. Both agree to comply with the terms of settlement.

8 It is made clear that if an application seeking waiver of the 6 month's statutory period, is made before the learned Family Court, Mumbai, the same to be considered by the learned Judge, having regard to

the judgment of the Apex Court in the case of ***Amardeep Singh vs. Harveen Kaur***¹.

9 Considering that the parties have entered into a settlement and have agreed to the terms of settlement as spelt out by the Mediator, nothing further survives for consideration in the petition. The same stands disposed of accordingly.

10 This Court records a word of appreciation for the efforts taken by Mr. Rajiv Patil, Mediator, in bringing about an amicable settlement between the parties.

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

REVATI MOHITE DERE, J.

1 (2017) 8 SCC 746