

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

CRIMINAL WRIT PETITION NO.3041 OF 2022

1. Sultan Latif Mamtule
 2. Bilal Mamtule
 3. Nilopher Mamtule
 4. Parveen Shaikh
 5. Sharifa Mamtule
 6. Abdul Latif Mamtule ...Petitioners
- Versus
1. The State of Maharashtra
 2. Saira Mamtule ...Respondents

Ms. Deepa Panicker, i/b Khalid Naseem Khan, for the Petitioners.

Ms. S. D. Shinde, A.P.P for the Respondent No.1– State.

Ms. Nibha Jha, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 17th NOVEMBER 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. Jha, waives notice

on behalf of the respondent No.2.

3. By this petition, the petitioners seeks quashing of the FIR bearing C.R. No. 163 of 2020 registered with the Malwani Police Station, Mumbai, at the behest of the respondent No.2, for the alleged offences punishable under Sections 498A, 354 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner No.1 is the husband of the respondent No.2, the petitioner No.2, the brother-in-law, the petitioner Nos.3 and 4, the sisters-in-law and the petitioner Nos.5 and 6, the in-laws of the respondent No.2 respectively. It appears that the petitioner No.1 and the respondent No.2 got married on 8th January 2019 as per Muslim rites and rituals. After marriage, the respondent No.2 started residing in her matrimonial house. From the said wedlock, the couple has a child, aged about 3 years. According to the respondent No.2 (original complainant), post marriage, the

petitioners started harrassing and ill-treating her, pursuant to which, she filed the aforesaid complaint, alleging the aforesaid offences. After investigation, charge-sheet was filed in the said case and presently the case is pending before the learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai, being Case No.PW/738/2022. It appears that the respondent No.2 has also filed a D. V. Complaint, as against the petitioners.

5. During the pendency of the aforesaid proceeding, the parties amicably settled their dispute. Accordingly, a Khulanama was entered into between the parties.

6. Learned Counsel for the petitioners has tendered a Deed of Khulanama, evidencing that the parties have sought divorce as per their customs. The said Deed of Khulanama is taken on record.

7. Learned Counsel for the respondent No.2 states that the dispute has been settled amicably. She states that as per the terms of

settlement, the petitioner No.1 is to pay Rs.4,50,000/- to the respondent No.2, out of which, the petitioner No.1 has paid a sum of Rs.2 lakhs to the respondent No.2 earlier and has today given, a demand draft of Rs.2,02,000/- to the respondent No.2. Learned Counsel for the respondent No.2 submits that the respondent No.2 has also filed her affidavit dated 16th June 2022, duly affirmed before the Assistant Registrar, High Court, Appellate Side, which is at Exhibit – ‘C’ on page 77 of the petition. In the said affidavit, the respondent No.2 has stated that she has amicably settled the dispute with the petitioners and as such has no objection to the quashing of the case/proceeding, initiated at her behest. Respondent No. 2 is present in Court. Respondent No. 2 is present in Court. On questioning, she re-iterates what is stated by her in her affidavit. She does not dispute the fact that the parties have dissolved their marriage by way of a Khulanama and of receipt of money as per the terms of settlement between them. Learned counsel for the respondent No. 2 has tendered a self attested photocopy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel

for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

8. Considering the nature of dispute, the relations between the parties, the Deed of Khulanama entered between the parties, the affidavit filed by the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the petition.

9. The petition is accordingly allowed and the FIR bearing C.R. No. 163 of 2020 registered with the Malwani Police Station, Mumbai, is quashed and set aside and consequently the proceeding pending before the learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai, being Case No.PW/738/2022, is also quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.