

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

CRIMINAL WRIT PETITION NO. 2663 OF 2022

1. Mubin Iqbal Shaikh
2. Saeeda Iqbal Shaikh
Saleha Sultan Shaikh @ Nilofar
4. Mohammad Iqbal Shaikh
5. Yasin Iqbal Shaikh

...Petitioners

Versus

1. The State of Maharashtra
2. Taslim Mubin Shaikh

...Respondents

Mr. Mohd. Saeed Moghul for the Petitioners

Mr. K. V. Saste, A.P.P for the Respondent No.1–State

Ms. Deepa Premachandran for the Respondent No. 2

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.
WEDNESDAY, 7th SEPTEMBER 2022**

P.C. :

1 Mentioned out of turn.

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 service on behalf of the respondent No.1–State. Ms. Premachandran waives service on behalf of the respondent No.2.

3 The petitioner No. 1 is the husband of respondent No. 2; petitioner Nos. 2 and 3 are the in-laws; petitioner No. 4 is the sister-in-law and petitioner No. 5 is the brother-in-law of the respondent No.2. The aforesaid petition has been filed for quashing of CC No.2719/PW/2021, pending before 24th Metropolitan Magistrate Court, Borivali, Mumbai, arising out of C.R. No. 44/2021 registered with the Malwani Police Station, Mumbai, for the alleged offence punishable under Sections 498A, 406, 323, 504 r/w Section 34 of the Indian Penal Code.

4 After investigation, charge-sheet was filed in the said case. It appears that thereafter, the parties amicably settled their dispute and as such the parties i.e. petitioner No.1 and respondent No.2 decided

to enter into mutual consent divorce as per Islamic Law and accordingly, respondent No. 2 has withdrawn all allegations against the petitioner-husband and consent terms are executed between them. The said consent terms are annexed to the petition at page 77. The respondent No. 2 has filed affidavit, giving her no objection for quashing of CC No.2719/PW/2021, pending before 24th Metropolitan Magistrate Court, Borivali, Mumbai, arising out of C.R. No. 44/2021 registered with the Malwani Police Station, Mumbai. Copy of the said affidavit is annexed at Exhibit `B' at page 71 to the petition.

5 Today, all the petitioners as well as respondent No. 2 are present in Court. Learned counsel for the parties submit that the parties have decided to take divorce by mutual consent and have settled their dispute. Pursuant to the said settlement, the petitioner No. 1, by way of full and final settlement amount, is to pay Rs. 3,00,000/-, in two installments of Rs.1,50,000/- each. In para 4 of the affidavit of no objection filed by the respondent No. 2, it is stated that the first installment of Rs. 1,50,000/- is received by the

respondent No. 2, by way of online bank transfer and the second installment is to be paid at the time of quashing of CC No.2719/PW/2021, pending before 24th Metropolitan Magistrate Court, Borivali, Mumbai, arising out of C.R. No. 44/2021 registered with the Malwani Police Station, Mumbai.

6 Learned counsel for the respondent No.2 identifies respondent No.2, who is present in Court. The respondent No. 2, when questioned, re-iterates the contents of the affidavit filed by her. She states that she has no objection for quashing of CC No.2719/PW/2021, pending before 24th Metropolitan Magistrate Court, Borivali, Mumbai, arising out of C.R. No. 44/2021 registered with the Malwani Police Station, Mumbai, and all consequential proceedings thereto.

7 Having regard to the relation between the parties, the nature of dispute and the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors.*

1 (2012) 10 SCC 303

*vs. State of Punjab & Anr.*², there is no impediment in allowing the petition.

8 The petition is accordingly allowed and CC No.2719/PW/2021, pending before 24th Metropolitan Magistrate Court, Borivali, Mumbai, arising out of C.R. No. 44/2021 registered with the Malwani Police Station, Mumbai, and the proceedings arising therefrom is quashed and set-aside. The balance amount of Rs. 1,50,000/- to be paid to the respondent No. 2, as per the consent terms, if not paid within one week.

9 Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.

² (2014) 6 SCC 466