

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

CRIMINAL WRIT PETITION NO.1523 OF 2022

**SHAIKH WASEEM QALANDAR PATEL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

WITH

CRIMINAL WRIT PETITION NO.1524 OF 2022

**SHAIKH WASEEM QALANDAR PATEL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Saeed S. Shaikh, Advocate for the petitioners
Mr. A. R. Kale, APP for the respondent/State
Mr. A. L. Kanade, Advocate for respondent No. 2.

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 12th JANUARY, 2023

PER COURT :-

1. These petitions are filed under Article 226 of Constitution of India and under Section 482 of the Code of Criminal Procedure to quash (i) FIR No. 30 of 2019 and consequent Sessions Case No. 406 of 2022 on the file of learned Sessions Judge, Aurangabad for offence under Sections 376-B, 323, 504 and 506 of the I.P.C. and (ii) FIR No. 95 of 2019 also registered with Sillod City Police Station, Sillod, District Aurangabad and consequent R.C.C. No. 121 of 2019 pending on the file of learned JMFC, Sillod for the offences punishable under Section 498-A, 323, 504, 506 and 34 of the IPC.

2. Heard learned for the petitioner, learned APP for the respondent/State and learned counsel for respondent No. 2. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

3. The respondent No.2 is the wife of the applicant No.1 - Shaikh Waseem. The record reveals that there was rift in their marital ties which led to filing of the complaints against the husband as well as his family members. The applicant, husband, in both the petitions as well as respondent No. 2 are present before the Court along with their respective counsels. They have stated that the matter has been amicably settled. The respondent No. 2 has filed her affidavit wherein she has confirmed that the dispute has been amicably settled and has given no objection for quashing the first information report. The parties have further stated that pursuant to the terms agreed between the parties proceeding under Section 125 of the Cr.P.C. which was pending on the file of learned JMFC, Sillod has been withdrawn. It is stated that both the parties have performed khula (divorce). The applicant-husband has already paid to the respondent No. 2 an amount of Rs.3,50,000/- and the balance amount of Rs.3,50,000/- which was earlier deposited before the Mediator has now been deposited before this Court.

4. It may be mentioned that though the respondent No. 2 has accused her husband of having committed offence under Section 376, on

going through the records we are of the view that the offence under Section 376 of the IPC is not made out. The other offences are arising mainly out of private dispute and can be quashed in view of settlement arrived between the parties and keeping in mind the principles laid down by the Hon'ble Apex Court in the case of ***B. S. Joshi Vs. State of Haryana, AIR 2003 SC 13861 and Jitendra Reghuvanshi and others Vs. Babita Raghuvanshi and Another (2013) 4 SCC 58.***

5. In the facts of the case and considering the settlement between parties, in our considered view, this is a fit case to exercise inherent powers under Section 482 of Cr.P.C. Hence the petitions are allowed. The FIR No. 30 of 2019 and Sessions Case No. 406 of 2022 on the file of learned Sessions Judge, Aurangabad for offence under Sections 376-B, 323, 504 and 506 of the I.P.C. and FIR No. 95 of 2019 also registered with Sillod City Police Station, Sillod, District Aurangabad and R.C.C. No. 121 of 2019 pending on the file of learned JMFC, Sillod for the offences punishable under Section 498-A, 323, 504, 506 and 34 of the IPC are quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

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