



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

CRIMINAL APPLICATION NO. 705 OF 2021

Zulekha Iqbal Mulla & Anr

...Applicants

Versus

The Sr. Police Inspector & Ors.

...Respondents

**WITH
CRIMINAL WRIT PETITION (ST) NO 19483 OF 2023**

Nizamuddin Iqbal Mulla

... Petitioner

Vs

State of Maharashtra & Anr.

... Respondents

Ms. Tripti Shetty for the Applicants in APL and for the Petitioner in WP.

Mr. S. V. Gavand, APP for the Respondent-State.

Mr. Wasim Samlewale for Respondent No. 3 in APL and Respondent No. 2 in WP.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ**

DATED : 25th OCTOBER, 2023

P.C.:

1. In both these proceedings prayer is for quashing of FIR in C.R. No. 167 of 2020 punishable u/s. 498A, 323, 504, 506 r/w. 34 of IPC.
2. After hearing the respective parties, we have been informed that the parties have reached for settlement. The Respondent/Complainant has placed on record the Consent

Affidavit. The parties have agreed to the following terms:

3. The Petitioner-husband shall comply with the paragraph no. 4 of the order dated 20/10/2023 passed by the Judge, Family Court, Sangali in pending proceeding being Petition A No. 509 of 2022 (Sumaiyya Mulla vs Nizamuddin Mulla). As such, the Petitioner-husband has undertaken to submit Khula nama / Mubarat nama on the next date of the hearing before the Family Court. Since, the said party is present before the Court and statement is made through the Counsel representing his interest, the same is accepted as an undertaking.

4. An attempt on the part of said party to defy the undertaking shall entail the Respondent/Complainant to approach before this Court with a request for reviving the present proceedings and proceedings shall accordingly be revived at the cost of the Petitioner/husband. This Court in such an eventuality shall be at liberty to initiate Contempt Proceedings against the party defying the aforesaid undertaking.

5. Apart from above, the Respondent/Complainant has undertaken before the Court that she shall be withdrawing the proceedings being PWDVA Application No. 74 of 2020 pending on the file of 5th Jt. Civil Judge, Junior Division, Sangali and also

consequential execution proceedings being PWDVA Execution No. 16 of 2022. It is claimed that the Respondent/Complainant accepts the receipt of an amount of Rs.1,70,000/-. Apart from above, the Petitioner-husband has undertaken before this Court to withdraw the PWDVA Appeal No. 48 of 2022 pending on the file of Adhoc District Judge-3, Addl. Sessions Judge, Sangali. In addition to above, the Respondent/Complainant has agreed to withdraw Appeal being PWDVA Appeal No. 51 of 2022 pending on the file of Ad-hoc District Judge - 3, Addl. Sessions Judge, Sangali.

6. Parties hereto have agreed that in future they shall not be filing any complaints against each other and complaints, if any, preferred by them shall be withdrawn by addressing appropriate communication to the respective authorities, copies of which shall be marked to the respective parties against whom such complaints are moved. Apart from above, it is agreed that in case, if any, proceeding pursuant to such complaints are taken up, the complaining party shall support the claim of the other party in neutralizing such complaint.

7. Apart from above, the parties have undertaken that in future they shall not be taking out any of the judicial proceedings or any complaints against each other before any of the Court or authority.

8. It is agreed that the amount of Rs.10,00,000/- deposited by the Petitioner/husband in the Family Court shall be paid to the Respondent/Complainant - wife after the conclusion of the divorce proceedings as the proceedings for divorce by mutual consent are pending consideration for placing on record the Khula nama / Mubarat nama.

9. Needless to clarify that the aforesaid amount of Rs.10,00,000/- to which the Respondent-wife is entitled to shall be in addition to an amount of Rs.1,70,000/-, which is already received by the said Respondent. The said amount shall be permitted to be withdrawn from the Family Court after the proceedings before the Family Court are concluded and upon respective parties withdrawing the proceedings initiated against each other.

10. In the aforesaid background, upon verification of the contents of the Consent Affidavit through Mr. Gavand, learned APP, we are informed that the Respondent/Complainant is extending consent for quashing of FIR in C.R. No. 167 of 2020 punishable u/s. 498A, 323, 504, 506 r/w. 34 of IPC out of her free will and without any coercion, subject to compliance of the aforesaid conditions.

11. In view of the stand taken by the Respondent/Complainant and having regard to the law laid down by the Apex Court in the matter of ***Gian Singh vs. State of Punjab and Another*** reported in ***(2012) 10 SCC 303*** and ***Narinder Singh & Ors. Vs State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***, no purpose will be served by keeping the present proceedings pending against the Applicants/Petitioner.

12. Both the proceedings stand allowed in terms of prayer clause (a).

(N. R. BORKAR, J)

(NITIN W. SAMBRE, J.)