

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

CRIMINAL WRIT PETITION NO. 899 OF 2020

1. Tausique Qurban Shaikh
2. Kalima Quarban Shaikh ...Petitioners
Versus
1. The State Of Maharashtra
2. Mrs. Ayesha Tausique Shaikh ...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 191 OF 2019**

Shaheen Sarfaraz Aaler ... Petitioner
Versus
1. The State of Maharashtra
2. Ayesha Tausique Shaikh ... Respondents

Ms. Anjali Joshi i/b Mr. Adnan N. Shaikh, for the Petitioners, in both the Petitions.

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

Mr. Sumeet Vankadkar, for the Respondent No.2, in both the Petitions.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 9th FEBRUARY, 2023.

P. C. :

Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith in both the Petitions with the consent of the parties and the Petitions are taken up for final disposal. Learned A.P.P. waives notice on behalf of the respondent No.1–State and learned Counsel Mr.Sumeet Vankadkar waives notice on behalf of the respondent No.2.

3 By these Petitions, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, the petitioners seek quashing and setting aside of the FIR, bearing C.R.No. 38 of 2018, registered with the Kurar Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 406, 323, 504 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. In Criminal Writ Petition No. 899 of 2020, the petitioner no.1 is the husband and the petitioner No.2 is the mother-in-law, respectively, of the respondent No. 2 and in Criminal Writ Petition No. 191 of 2019, the petitioner is the sister-in-law of the respondent No.2.

5 It is alleged that the petitioner No.1 got married to the respondent No.2 on 18th May, 2017, as per Muslim rites and Customs and pursuant to which, the respondent No.2 started residing at her matrimonial house. Due to marital discord and alleged ill-treatment and harassment by the petitioners, the respondent No.2 left her matrimonial home in January, 2018 and lodged the aforesaid FIR, as against the petitioners alleging the aforesaid offences. Admittedly, charge-sheet has not been filed in the said C.R. till date.

6 In the interregnum, during the pendency of the investigation of the aforesaid C.R., the parties decided to amicably settled their dispute. Learned Counsel for the respondent No.2 has filed an affidavit of the respondent No.2 dated 8th March, 2022, which is at page 33 and 52 of the Petitions, respectively. To the said affidavits are annexed the Consent Terms entered into between the petitioner No.1 in Criminal Writ Petition No. 899 of 2020 and the respondent No.2-Ayesha Shaikh and the Talaq granted by the All India Muslim Personal Law Board. In the said affidavit the respondent No.2 has given her no objection to the quashing of the aforesaid proceeding in

view of the amicable settlement between the parties and the Consent Terms entered into between her and the petitioner No.1 in Criminal Writ Petition No. 899 of 2020.

7 The respondent No.2 is present in person. On being questioned, she re-iterates what is stated by her in her affidavits. The respondent No.2 has been identified by her Counsel. Learned Counsel for the respondent No.2 has tendered a photocopy of the Aadhar Card duly attested by her. The same is taken on record and the original is verified by the learned APP.

8 Considering the nature of dispute, the amicable settlement between the parties, the Consent Terms entered into between the parties, the affidavits of the respondent No.2 and having regard to the the judicial pronouncements of the Apex Court in the case of **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.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

9 The Petitions are accordingly allowed and the FIR bearing C.R.No. 38 of 2018, registered with the Kurar Police Station, Mumbai, as against the petitioners in both the Petitions, is quashed and set-aside.

10 Petitioner No.1 in Criminal Writ Petition No.899 of 2020 to directly deposit cost of Rs.50,000/- (Rupees Thousand) in the account of the respondent No.2 within eight weeks from today.

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

12 The above order is subject to costs being deposited in respondent No.2's account, as stated aforesaid.

13 List on **13th April, 2023**, under the caption 'for compliance'.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.