

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

CRIMINAL APPLICATION NO.1311 OF 2022

- | | | |
|----|----------------------------|----------------|
| 1. | Mohd. Mursheed Soleman Ali | |
| 2. | Mamata Begum Soleman Ali | |
| 3. | Soleman Ali | ...Applicants |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Nasima Khatun | ...Respondents |

***WITH
CRIMINAL APPLICATION NO.178 OF 2022***

- | | | |
|---------------|----------------------------|----------------|
| Nasima Khatun | ...Applicant | |
| Versus | | |
| 1. | The State of Maharashtra | |
| 2. | Mohd. Mursheed Soleman Ali | |
| 3. | Mamata Begum Soleman Ali | |
| 4. | Soleman Ali | ...Respondents |

Mr. Siddharth A. Mehta, for the Applicants in APL/1311/2022.

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

Mr. Akshay H. Kumar, i/b Zaid Qureshi, for the Applicant in APL/178/2022 and for the Respondent No.2 in APL/1311/2022

Mr. Mohd. Mursheed Soleman Ali, Applicant No.1 in APL/1311/2022, is present through video-conferencing.

Ms. Nasima Khatun, Applicant in APL/178/2022 and Respondent No.2 in APL/1311/2022, is present through video-conferencing.

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

***DATE : 31st JANUARY 2023
(IN CHAMBERS)***

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. Mr. Kumar waives notice on behalf of the respondent No.2.
3. By this application, preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR bearing C.R. No.41 of 2016, registered with the Uttam Nagar Police Station, Pune, for the alleged offences punishable under Sections 498A, 504, 506, 406 r/w 34 of the Indian Penal Code and consequently, the proceeding pending before the learned Judicial

Magistrate First Class, Pune being No. R.C.C. No.4573 of 2016. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The applicant No.1 is the husband of the respondent No.2 and the applicant Nos.2 and 3, are the mother-in-law and father-in-law of the respondent No.2 respectively. It appears that the applicant No.1 and the respondent No.2 got married on 8th July 2014 at Kolkata, as per Muslim rites and rituals. As according to the respondent No.2, she was allegedly ill-treated and harassed by the applicants, she lodged the aforesaid FIR, as against the applicants, alleging the aforesaid offences. Admittedly, the couple has no issue from the said marriage. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Judicial Magistrate First Class, Pune being No. R.C.C. No.4573 of 2016.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and entered into a deed of Mubaratnama. The said Mubaratnama is at Exhibit – ‘B’, on page 119 of the aforesaid application. The parties i.e. the applicant No.1 and the respondent No.2 have also filed Consent Terms before the learned Judge, Family Court, Pune in P.A. No.1251 of 2021. It appears that the Principal Judge, Family Court, Pune, vide order dated 3rd December 2021 dissolved the marriage between the parties, in view of the Mubaratnama and the Consent Terms. A perusal of the Mubaratnama and the Consent Terms shows that the same have been signed by the respondent No.2’s father, Latifur Rahaman, the power of attorney holder of the respondent No.2. Respondent No.2 – Nasima Khatun, is present before us, through video-conferencing. She does not dispute the fact, that she has given her power of attorney to her father - Latifur Rahaman, pursuant to which, the Consent Terms as well as Mubaratnama were entered into by and between the parties. She accepts the terms and conditions set out in the Mubaratnama as well as the Consent Terms.

She also states that she will abide by the terms and conditions entered into by and on her behalf by her father - Latifur Rahaman, who is the signatory to the Consent terms as well as Mubaratnama. Statement accepted. Learned Counsel for the respondent No.2 has identified the respondent No.2.

6. We are informed that pursuant to the consent terms, the applicant No.1 has deposited a sum of Rs.5 lakhs in the Family Court at Pune. Applicant No.1 - Mohd. Mursheed Soleman Ali, is present before us, through video-conferencing. He states that he has no objection if the respondent No.2 withdraws the said amount of Rs.5 lakhs deposited by him, alongwith accrued interest, if any. Statement accepted.

7. Considering the nature of dispute, the amicable settlement between the parties, the relations between them, the consent terms entered into between the parties and having regard to the judicial

pronouncements of the Apex Court in *Gian Singh vs. State of Punjab and Another*¹ and *Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the application.

8. The application is accordingly allowed and the FIR bearing C.R. No.41 of 2016, registered with the Uttam Nagar Police Station, Pune, and consequently, the proceeding pending before the learned Judicial Magistrate First Class, Pune being No. R.C.C. No.4573 of 2016, are quashed and set-aside.

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

10. Respondent No.2 – Nasima Khatun, is at liberty to withdraw the said amount of Rs.5 lakhs deposited by the applicant No.1, alongwith accrued interest, if any, on furnishing document relating to proof of her identity.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

11. It is also open for the learned Judge, Family Court, Pune, to transfer the said amount of Rs.5 lakhs, alongwith accrued interest, if any, directly in the account of the respondent No.2, after verifying her account details.

12. The details of the account be furnished by the respondent No.2 through her advocate to the learned Judge, Family Court, Pune, to enable the learned Judge to take appropriate steps.

13. In view of the order passed in Criminal Application No.1311 of 2022, nothing survives for consideration in Criminal Application No.178 of 2022. The same is disposed of accordingly.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.