

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO.5322 OF 2017**

|                             |   |             |
|-----------------------------|---|-------------|
| 1. Sayed Faiz Ahmed Kadri   | ] |             |
| 2. Zubeda Anwar Kadri       | ] |             |
| 3. Anwar Abdul Majid Kadri  | ] |             |
| 4. Rahin Afroz Sayed        | ] | Petitioners |
| Vs.                         |   |             |
| 1. State of Maharashtra     | ] |             |
| 2. Arshima Faiz Ahmed Kadri | ] |             |
| d/o Sultan Siddique         | ] | Respondents |

.....

Mr. Saeed A. Khan i/b H and M Legal Associates, for Petitioners.

Ms. P.P. Shinde, A.P.P, for Respondent No.1-State.

Mr. Neeraj Yadav, for Respondent No.2.

.....

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

**DATE : 24th February, 2023.**

**ORDER: [Per Prithviraj K. Chavan, J.]**

1. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, petition is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1 - State. Mr. Yadav, learned Counsel waives notice on behalf of respondent No.2.

5. By this petition under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the petitioners seek quashing of the First Information Report bearing No.243 of 2014, registered with Oshiwara Police Station, Mumbai for the alleged offences punishable under sections 498-A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code (for short "I.P.C") and consequently, a proceeding pending before the learned Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai being C.C. No.767/PW/2016. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as under.

7. Respondent No.2 got married with Petitioner No.1 on 23rd April, 2015 as per Sunni Islamic rites. After marriage, respondent No.2 cohabited at matrimonial home with all the petitioners. On the very first night after marriage, petitioner No.1 demanded a four wheeler or equivalent amount in lieu of the four wheeler from the respondent No.2. When she expressed her inability to fulfill the demand, she was abused as well as harassed physically and mentally not only by the petitioner No.1 - her husband but also by her in-laws. Demand of the petitioners could not be fulfilled owing to the poverty of her parents.

8. The prosecution case further reveals that the respondent No.2 tried to convince petitioner No.1 and her in-laws, however, there was no change in their behaviour. Even sisters of petitioner No.1 subjected the respondent No.2 to physical and mental harassment. Harassment and ill-treatment has gone to the extent that she was restrained from co-habiting with the petitioner No.1. She was driven out of the house and sent to her natal house by threatening that unless her parents fulfill their demand of four wheeler or give amount in lieu of the same, the petitioners would not allow her to resume cohabitation. It was specifically alleged that on 2nd May,

2015, her mother-in-law asked her husband to leave her at her parents house and threatened her that if she come back, she would pour kerosene on her person and set her ablaze. As such, respondent No.2 was driven out of house. Accordingly, an F.I.R came to be lodged as against the petitioners, as above.

9. The parties have now amicably settled their dispute. They have tendered consent terms before the Metropolitan Magistrates Railway Mobile Court, Andheri, Mumbai. A photostat copy of the said consent terms is 'Exhibit B'. For ease reference, the said consent terms are reproduced below;

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\* Exhibit B

IN THE METROPOLITAN MAGISTRATE'S RAILWAY MOBILE  
COURT, AT ANDHERI, MUMBAI  
C.C. NO. 149/DV OF 2015

|                                   |               |
|-----------------------------------|---------------|
| Mrs. Arshima Faiz Ahmed Kadri     | )             |
| D/o. Sultan Siddique,             | )             |
| Age 20 years, Occ: Housewife,     | )             |
| Residing at Room No. 404, A/Wing, | )             |
| Chirag Sultan Baug, Behram Baug,  | )             |
| Jogeshwari (West), Mumbai 400102. | )             |
|                                   | ... Applicant |

V/S.

|                                          |                 |
|------------------------------------------|-----------------|
| 1. Mr. Sayed Faiz Ahmed Kadri            | )               |
| Aged 23 years, Occ: Business,            | )               |
| 2. Mrs. Zubeda Anwar Kadri,              | )               |
| Aged 21 years, Occ: Housewife,           | )               |
| 3. Mr. Anwar Shah Kadri,                 | )               |
| Aged 61 years, Occ: Business,            | )               |
| 4. Mrs. Rahim Ahmed, <del>conveyed</del> | )               |
| Aged 47 years, Occ: Service,             | )               |
| All having address at 503, Lily          | )               |
| Apartment, B-Wing, S.V. Road,            | )               |
| New Deewan Centre, Jogeshwari            | )               |
| (West), Mumbai 400 102.                  | )               |
|                                          | ... Respondents |

**CONSENT TERMS**

Both the parties have decided to settle the matter mutually on following consent terms;

i. Both the parties shall withdraw allegation made against each other and shall settle the matter amicably.

True Copy  
H&M Legal Associates  
Advocates

1

put up for  
signature - 2/11/15  
08-00  
2/11/15

49 (2)

- ii. Both parties are agreed to settle their dispute amicably. Both parties will not file any complaint civil, criminal or whatsoever in nature against each other which arise out of said wedlock.
- iii. The marriage was solemnized on 23<sup>rd</sup> April 2015 And since 1<sup>st</sup> May 2015 they are staying separately. There is no issue born out of the said wedlock.
- iv. It is agreed between the parties that the Respondent shall pay Rs.2,50,000/- (Rs. Two lakh Fifty Thousand only) towards the full and final ~~maintenance~~ <sup>amount.</sup> *Ukash*  
*p. 20/10/2016, 5/11/16 and*
- v. It is agreed that Petitioner/Applicant will waive off her right for maintenance for future and will not demand for any compensation thereof. It is agree by both the parties that in future they will not claim any kind of compensation or right in movable or immovable property or inheritance property against each other thereof.
- vi. It is agreed by the parties that the Respondent will give talaq to the applicant. It is agreed by the parties that said Talaq will be accepted by the applicant.
- vii. Both the parties have exchanged their belongings, articles, jewellery etc and no exchanges pending against each other.
- viii. It is also agreed that the applicant will cooperate to respondent for quashing proceeding of C.C. No: 767/PW/2016 filed in CR No: 243/2016 u/s 498A, 323,

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504, 506, 34 IPC and pending before the Ld. Railway Mobile Court, Andheri, Mumbai in Bombay High Court.

ix. It is hereby agreed by the Applicant and Respondents that the Respondent No. 1 will pay a Sum of Rs.1,50,000/- by way of Demand Draft drawn on Trichia Bank (452201), dated 30/1/2017. On receiving the said amount the Applicant will withdraw D.V. Matter pending before Hon'ble Railway Mobile court vide C.C No.149/DV/2015.

x. It is hereby agreed by the Applicant and Respondents that all the Respondent will file quashing Petition for quashing of C.C No. 767/PW/2016 before the Hon'ble Bombay High Court and the Applicant shall execute the necessary Affidavit in support of the Petition and shall remain present at the time of hearing. The Respondents agree that on the day of hearing they shall have a Demand Draft of Rs.1,00,000/- before ~~the~~ Learned Judges to the Applicant as full and final settlement amount as agreed.

xi. It is hereby agreed by the Applicant and Respondents that the Respondent No. 1 will thereafter pronounce 'Talaq' to the Applicant in presence of Qazi and witnesses and the same will be communicated to the Applicant.

xii. It is hereby agreed that the Settlement amount of Rs.2,50,000/- shall be inclusive of Iddat and Meher

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Amounts and the Respondent No.1 shall not pay it separately to the Applicant after Talaq.

Mumbai

Date: 31-01-2017

Arshumay  
Applicant.

Naseem J.  
Advocate for Applicant.

Respondents.

1. Shahid
2. Shahid
3. Shahid
4. Shahid

Advocate for Respondents.  
Naseem J. Shahid  
Naseem J. Shahid

Receipt

Received Rs 1,00,000/- vide D.O. No: 4522-31, dated 30-11-17 drawn on Indian Bank, Mahim Branch, from Mr. Sayed Fair Ahmed Kaderi Rs 300. (The Respondent) in the C.C. No. 1491 of 17, as per the consent terms dated 30-11-17 filed before this Hon'ble Court.

dated: 30-11-17  
place: Mumbai

I say Received Rs 1,00,000

Arshumay  
31-1-17  
Arshumay Fair Ahmed Kaderi

A TRUE COPY

JUDICIAL CLERK  
MUMBAI COURT  
MUMBAI COURT, ARSHUMAY FAIR AHMED KADERI

True Copy  
H&M Legal Associates

10. Learned Counsel for the respondent No.2 has filed affidavit of the respondent No.2 dated 11th January, 2023 duly affirmed

before the Assistant Registrar, High Court, Appellate Side, Bombay, in the Registry on 17th February, 2023. In her affidavit, she has stated that conflicts arose between her and the petitioners due to some misunderstanding. Due to intervention of mediators and relatives, the petitioners and respondent No.2 have settled their dispute and filed consent terms in C.C. No.149/DV/2015. She has no objection to quashing the F.I.R/proceedings initiated at her behest against the petitioners, in view of the amicable settlement between them.

11. Respondent No.2 is present in the Court. On being questioned, respondent No.2 reiterates what is stated by her in her affidavit. Learned Counsel for the respondent No.2 has tendered a photostat copy of her Aadhar Card. The same is taken on record. Learned Counsel for respondent No.2 has identified her. Learned A.P.P has verified the original Aadhar Card of the respondent No.2.

12. Considering the nature of the dispute, relations between the parties, amicable settlement between them and consent terms arrived at by them, affidavit of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in case of **Gian**

**Singh Vs. State of Punjab and another<sup>1</sup> and Narinder Singh and others Vs. State of Punjab and another<sup>2</sup>**, there is no impediment in allowing the petition.

13. The petition is accordingly allowed. The F.I.R bearing C.R. No. 243 of 2015 registered with Oshiwara Police Station, Mumbai, as against the petitioners and consequently the proceeding pending before the Metropolitan Magistrate's Railway Mobile Court, Andheri, Mumbai being C.C. No.767/PW/2016, are quashed and set aside.

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

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

**[PRITHVIRAJ K. CHAVAN, J.]      [REVATI MOHITE DERE, J.]**

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1 (2012) 10 SCC 303

2 (2014) 6 SCC 466