

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1455 OF 2022

1. Mohd. Tafhim s/o Abdul Qayyum Khan
2. Abdul Qayyum s/o Abdul Yukub Khan
3. Ayesha w/o Abdul Qayyum Khan
4. Shaika s/o Amjad Khan
5. Rubina w/o Majid Khan ... Applicants

Versus

1. The State of Maharashtra
2. Najamunnisa Khan ... Respondents

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Mrs. Daksha Punghera aw Karan Gajra i/b Desai Legal for the Applicant.

Ms. M. M. Deshmukh, APP for the State.

Mr. Jitesh Alva for Respondent No. 2.

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**CORAM : SMT. ANUJA PRABHUDESSAI &
N.R. BORKAR, JJ.**

DATED : 23 JANUARY 2024

P.C. :-

1. At the outset, learned counsel for the applicants seeks leave to amend the prayer clause as to incorporate the criminal case number. Leave granted. Amendment to be carried out forthwith.

2. By this application filed under Section 482 of the Code of Criminal Procedure, the applicants seek to quash Crime No. 625 of 2022 registered with Naya Nagar, Mira Bhayandar Vasai Virar Police Station for offences under Sections 498-A, 504, 506, 377, 354, 406 r/w 34 of the Indian Penal Code and RCC No. 122 of 2023 arising therefrom and pending on the file of 6th Joint Civil Judge Junior Division, Thane.

3. The aforesaid crime was registered pursuant to the First Information Report lodged by respondent No. 2. The facts narrated in the FIR reveal that the marriage of respondent No. 2 and applicant No. 1 was solemnized on 2 February 2018. The respondent No. 2 lodged the FIR on 24 August 2022 alleging that her husband and his family members had subjected her to cruelty.

4. Learned counsel for the applicants and respondent No. 2 state that parties have settled the matrimonial dispute. They have placed on record consent terms which read thus:

“MOHD. TAFHIM S/O ABDUL QAYYUM KHAN (Husband)

shall hereinafter be referred to as “Tafhim” and NAJAMUNNISA KHAN (Wife) shall hereinafter be referred to as “Najamunnisa”. Both parties shall hereinafter collectively be referred to as “Parties”.

1. That, the present proceedings are arising from the F.I.R dated 24.08.2022 vide Crime No. 625/2022 for offences u/s 498-A, 504, 506, 377, 354, 406 r/w 34 of the Indian Penal Code, 1860 registered at Nayanagar Police Station, Mira Road by Najamunnisa.

2. That, by virtue of registration of the FIR No. 625/2022, the Applicant husband Mr. Tafhim alongwith his relatives approached the Hon’ble Bombay High Court for Quashing of the FIR vide Criminal Application No. 1455 of 2022. That, the Hon’ble Bombay High Court vide order dated 03.10.2023 referred the said matter for mediation and appointed Hon’ble Justice Smt. Sadhana S. Jadhav, Former Judge, Bombay High Court as the mediator in the matter for resolution of dispute amongst the parties and bring them together to achieve a mutually agreeable solution of their dispute.

3. That, after several counselling sessions before the Hon’ble Mediator, both the Parties have amicably resolved their matrimonial dispute as well as all other disputes involving their family members.

4. Agreed, declared and confirmed that Tafhim shall pay an amount of Rs. 6,00,000/- (Rupees Six Lakhs only) to Najamunnisa along with Iddat amount of Rs. Rs.7,500/- (Rs. Seven Thousand Five Hundred Only) towards the full and final settlement of all of Najamunnisa claims including permanent maintenance, residence and alimony for the past, present and future and any other claim which Najamunnisa may have against Tafhim.

5. The aforesaid amount of Rs. 6,00,000/-, shall be paid by way of 2 cheques of Rs. 3,00,000/- each viz. Cheque No. 627222 dated 24.01.2024 and Cheque No. 627223 dated 24.01.2024 which shall be paid by Tafhim to Najamunnisa forthwith, at the time of execution of the present consent terms before the Hon’ble Mediator. That, the amount of Rs. 7,500/- shall be paid in cash.

6. Agreed, declared and confirmed that the plot mentioned hereinbelow wherein Tafhim shall transfer his

share in a plot to Najamunnisa by way of Hiba Nama/ Gift deed. The said plot is in joint name of Tafhīm and Najamunnisa which is located at Nagpur viz. Plot No. 52, Total area: 135.00 Sq. mts. [1453.14 Sq. ft.], Kh. No. 173/1, 173/2 (part) of P.H.No.12-A, Mouza: Lonara, Tahsil: Nagpur (Gramin), Dist. Nagpur. It is further Agreed, declared and confirmed by Najamunnisa that the Charges of the Registration and Gift Deed shall be borne by her.

7. Agreed, declared and confirmed that all Gold, silver articles and jewelry are in the custody of Najamunnisa and therefore she has no further claims or dispute pertaining to the possession of all Gold, silver articles and jewelry.

8. Agreed, declared and confirmed that the marriage of the Parties solemnized on 02nd February 2018, is hereby dissolved by a divorce by mutual consent under the Muslim Personal Law. Agreed, declared and confirmed that Tafhīm has sent three notices for Divorce dated 19.08.2022, 26.10.2022 and 26.11.2022 as per Muslim Personal Law. The same has been accepted by Najamunnisa (wife). Therefore, it is Agreed, declared and confirmed between the parties that the marriage is considered to be dissolved as on 26.11.2022 as per Muslim Personal Law.

9. Agreed, declared and confirmed that the Domestic Violence Complaint PWDVA Application No. 421/2022 which is pending before the Court of Ld. Chief Judicial Magistrate, Thane, titled as Najamunnisa Tafhīm Khan Vs. Mohd Tafhīm Khan and Ors. shall be withdrawn by Najamunnisa unconditionally and shall be disposed of in view of the present consent terms being executed between the parties.

10. Agreed, declared and confirmed that Najamunnisa gives her consent for quashing of the F.I.R. No.625/2022 registered with Nayanagar Police Station against all the Accused i.e. Tafhīm (husband) and others including all the relatives of the husband arraigned in the said FIR, before the Hon'ble Bombay High Court in Criminal Application No. 1455 of 2022.

11. Agreed, declared and confirmed that the R.C.C. No. 122/2023 which is pending before the Court of 6th Jt. Civil Judge Junior Division, Thane, titled as Nayanagar Police Station Vs. Ayasha Abdul Khan and Ors. shall be disposed of

in view of the present consent terms being executed between the parties.

12. Agreed, declared & confirmed that by Tafhim shall sent Najamunnisa on 25th January, 2024, all her belongings which includes clothing, sets of imitation jewelry, her 3 luggage bags, sandals, purses, accessories, blanket, purple bedding set, holy Quran which were gifted by her parents, at her uncle Mr. Tariq Khan's residence in Nagpur. That, Mr. Tariq Khan's shall hand over a written acknowledgment to Tafhim after receipt of all the belongings.

13. Najamunnisa agrees and undertakes to this Hon'ble Court, that she will not have any further claims of whatsoever nature with regard to her permanent maintenance, alimony and residence against Tafhim and/or his family members; for the past, present or future, even under changed circumstances.

14. All the valuable articles of both Parties are already exchanged between them and no other exchange remains.

15. The Parties agree that they shall not put any defamatory content against each other on WhatsApp, Facebook, Instagram or on any other social media platform/s or use any photograph/s, audio/s or video/s, taken/recorded against each other.

16. Agreed and declared that the Parties undertake not to file any fresh proceedings against each other and/or their respective family members directly and/or indirectly, either civil or criminal, whether in India or outside India, regarding the subject matter of the marital disputes between the Parties.

17. Agreed and declared that the Parties they shall not have any right, title or interest in each other's individual properties and they will not have any claim on movable or immovable properties of each other in the future.

18. Agreed, declared and undertaken by the Parties that they will not interfere in each other's personal and/or professional lives and/or cause any hinderance/nuisance to each other or their families in the future.

19. *Agreed, declared and confirmed that the present consent terms constitute the full, final and complete settlement between the Parties and they undertake that no further claims and/or demands, of any nature whatsoever, will be raised by either of them against each other in the future, even under changed circumstances. Both Parties have no claims of any nature whatsoever against each other.*

20. *Agreed, declared and confirmed that these Consent Terms have been signed by the Parties after going through and understanding the contents herein without any undue influence, misrepresentation, mistake or coercion of any nature whatsoever.*

21. *Agreed, declared and confirmed that all the pending proceedings filed by the parties shall stand disposed of in terms of these Consent Terms.*

22. *Agreed, declared and confirmed that the Parties shall have liberty to apply to this Hon'ble Court for necessary directions, in the event of breach of these consent terms by the other Party or in the event of any necessity to further compliance of thee Consent Terms.*

23. *Agreed, declared and confirmed the parties undertake to abide by these consent terms and the same are binding upon both of them."*

5. The applicants and respondent No. 2 have confirmed the consent terms. The same are marked 'X' for the purpose of identification. Respondent No. 2 has also filed her affidavit stating that the matter has been amicably settled. The statements made in the consent terms are accepted as an undertaking given to the Court.

6. Respondent No. 2 is present before the Court. She has been identified by her Advocate. She confirms the contents of the consent terms as well as the affidavit. She admits having received an amount of Rs. 6 Lakhs as per clause No. 5 of the consent terms. The consent terms are genuine and voluntary. Since the parties have put an end to the matrimonial dispute, in our considered view, this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure to secure the ends of justice. Hence, the Application is allowed.

7. The Crime No. 625 of 2022 registered with Naya Nagar, Mira Bhayandar Vasai Virar Police Station for offence under Sections 498-A, 504, 506, 377, 354, 406 r/w 34 of the Indian Penal Code and RCC No. 122 of 2023 arising therefrom and pending on the file of 6th Joint Civil Judge Junior Division, Thane is hereby quashed.

(N.R. BORKAR, J.) (SMT. ANUJA PRABHUDESSAI, J.)