

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 64 OF 2024**

1. Sachin Jaiprakash Gupta
 2. Jaiprakash Jagganath Gupta
 3. Saroj Jaiprakash Gupta
 4. Balendraprasad Pancham Gupta ... Petitioners
- Versus
1. The State of Maharashtra
 2. Shraddha w/o Sachin Gupta ... Respondents

**AND
WRIT PETITION NO. 65 OF 2024**

1. Sachin Jaiprakash Gupta ... Petitioner
- Versus
1. The State of Maharashtra
 2. Shraddha w/o Sachin Gupta ... Respondents

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Mr. S. G. Rajput for the Petitioners.
Ms. M. M. Deshmukh, APP for the State in WP/64/2024.
Ms. Rutuja Ambekar, APP for the State in WP/65/2024.
Mr. Suraj Gothwal for Respondent No. 2.

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

DATED : 9 JANUARY 2024

P.C. :-

1. In Writ Petition No. 64 of 2014, the petitioners seek to quash Crime No. 465 of 2018 registered with Kurar Police Station for offences under Sections 498-A, 420, 406, 323, 504, 506 r/w 34 of the Indian Penal Code and CC No. 3245/

PW/2018 arising therefrom and pending on the file of Metropolitan Magistrate 67th Court, Borivali.

2. In Writ Petition No. 65 of 2014, the petitioner seeks to quash Crime No. 46 of 2018 registered with Kurar Police Station for the offences under Sections 323, 504, 509 of the Indian Penal Code and CC No. 644/PS/2018 arising therefrom and pending on the file of Metropolitan Magistrate 67th Court, Borivali.

3. The marriage of respondent No. 2 and petitioner No. 1 was solemnized on 29 November 2012. They have a child from the said wedlock. The respondent No. 2 lodged FIR alleging that her husband and his family members had subjected her to cruelty. Pursuant to the said FIR, the aforesaid crime has been registered and upon completion of investigation charge-sheet has been filed.

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

"1. That the petitioner no.1 Mr.Sachin S/o Jaiprakash Gupta (respondent no.1 before family court) and respondent no.2 Mrs. Shraddha Sachin Gupta (Petitioner before family court) had settled their disputes and agreed to take divorce by mutual consent from each other and had filed their consent terms before the Family Court Bandra in Petition No. A 1624 OF 2022. The contents of said consent terms are as follows;

a. That the petitioner and respondent have agreed to get separated from each other and dissolve their marriage by taking divorce by mutual consent as they have settled their disputes between each other.

b. That the Petitioner agrees and declare that she will withdraw all the court proceedings filed by her, including giving her consent for quashing of two criminal complaints and all other cases, which includes DV Case No. 36 of 2019 and two criminal complaints 644/PS/18 and CC 3245/PW/18, filed by her against the respondent, after filing present mutual consent terms. The Petitioner agrees that she will file purshis of withdrawal of DV Case No. 36 of 2019, and give her consent for quashing of two criminal complaints 644/PS/18 and CC 3245/PW/18 in the required proceedings to be filed for quashing the above two criminal cases, before the grant of decree of divorce from this Hon'ble Court.

c. The Petitioner and Respondent further declare that hereinafter they shall have no further right against each other to claim any Maintenances, Alimony or Right to accommodation or any other claim arising and according on account of said marriage dated **29/11/2012**, as now both are residing separately since **05/07/2016** from each other.

d. The Petitioner will not claim for further maintenance, expenses anything at any anytime in future from respondent.

e. That the Petitioner agrees and declare that she has, in future or now will have no claim or demand from or against respondent, any Maintenance or Streedhan etc., for any period of time in the past, at present or in future. She will also not claim any right for maintenance as divorcee in future from the respondent.

f. The Petitioner and Respondent agree that the permanent custody of their daughter will be with the Petitioner and respondent will never claim her permanent custody.

g. The Petitioner and Respondent hereby jointly and severally declare that they have released, relinquished, give up and discharge each other from their Maintenances, Residential Accommodation and any Alimony permanent or monthly.

h. There are no any exchanges pending between the Petitioner and Respondent above named. The respondent has given all belongings of the Petitioner. Nothing is remained to give each other.

i. That both the Petitioner shall not claim any Maintenance pending the proceeding and expenses of proceedings under Sec. 24 and permanent Alimony and a Maintenance under Sec. 25 of Hindu Marriage Act, 1955 or under Sec. 125 of C.R.P.C. & or PWDV Act, or under any other statute. Further, Petitioner shall give her consent to quash both the FIR under section 498A, 420, 406, 323, 504, 506 & 34 of the IPC, and under section 509, 323 & 504, withdraw the domestic violence case No. 236 / 2019 and other cases after filing of this Application of divorce by Mutual Consent.

j. Both the Petitioner and Respondent shall not contact personally or on telephone each other unless dire need arises and shall not harass and/or create nuisance to each other and shall not interfere in each other life.

k. That both the parties shall not make any claim in respect of moveable and immovable properties of each other.

l. There will be no other legal proceeding pending against each other. Both the parties expressly agree that they will not initiate any legal proceedings either civil or criminal against each other in future in

respect to the matrimonial issues and defame to each other on any mode of social media for past matrimonial cases and criminal cases against each other.

m. Both the Petitioner and Respondent agree and hereby undertake not to use / misuse each other's personal information and / or photographic and/ or the photographs of their respective relatives, whether hard copy or soft copy having in their respective possession, with whatsoever intention hereafter. Both the Petitioner and Respondent shall be forthwith free to perform second marriage if they so desire.

n. Both the Petitioner and Respondent hereby understood the contents of the present Consent Terms and the same declare that they have read and are signed by them by duly understanding, without any force, fear, fraud and/or under undue influence.

o. Petitioner gives her consent to remove her name from the ration card of respondent from Malad property.

p. In view of the overall settlement, there shall be no other rights, claims and dues including any claim for movable or immovable property of whatsoever nature against each other in future.

q. Both the parties shall not interfere in each other's life after passing of the decree of divorce. Both the parties shall not pursue before any authority whatsoever any matter arising out of this marriage.

r. The Petitioner and Respondent hereby unconditionally agree and accept that the fulfillment of terms of mutual consent mentioned above are the conditions precedent for the grant of final decree of divorce between Petitioner and Respondent.

s. The above mentioned consent terms read over to the parties in English, explained in Hindi and understood by them before execution and they have understood the contents of the same and both the parties have voluntarily with their free will and consent signed the same.

The copy of the above said consent terms are produced in the above petition at **Exhibit D.**, contents of which may be treated as part and parcel of present mutual consent terms.

2. That the petitioner no.1 and respondent no.2 have mutually further agreed that the petitioner no.1 will pay Rs.8,00,000/- to respondent no.2 towards **one time maintenance for their girl child Maesha**, of which schedule of payment is stated as below;

Sr No.	Date of Payment	Amount
1	09.01.2024 by Cheque no.455649 of IDBI Bank, Bangalore Karnataka.	2,00,000/-
2	On or before 18.01.2024 i.e before obtaining the Decree of Divorce by Mutual Consent from Family Court, Bandra.	6,00,000/-
	Total	8,00,000/-

3. Hence these Consent terms are filed by the Petitioners and Respondent no.2, same may be accepted and taken on record in the above petition.
4. In view of the above consent terms agreed upon by the petitioners and respondent no.2 kindly the petition may be allowed in terms of prayer clause **(a)** of the above petition”

5. The petitioners as well as respondent No. 2 are present before the Court. They are identified by their respective counsel. They have identified their signatures and have confirmed the contents of the consent terms and

have agreed to abide by the same. The consent terms are taken on record and marked 'X' for the purpose of identification.

6. In our considered view, the settlement is voluntary and genuine. Since, the parties have put an end to the matrimonial dispute, in our considered view, continuance of criminal proceedings would be an exercise in futility. Hence, this is a fit case to quash the FIR as well as the criminal proceedings. Under the circumstances, the Petitions are allowed in terms of prayer clause (a).

7. The Crime No. 465 of 2018 registered with Kurar Police Station for offences under Sections 498-A, 420, 406, 323, 504, 506 r/w 34 of the Indian Penal Code and CC No. 3245/PW/2018 arising therefrom and pending on the file of Metropolitan Magistrate 67th Court, Borivali is hereby quashed.

8. The Crime No. 46 of 2018 registered with Kurar Police Station for the offences under Sections 323, 504, 509 of the Indian Penal Code and CC No. 644/PS/2018 arising

therefrom and pending on the file of Metropolitan Magistrate 67th Court, Borivali is hereby quashed.

9. The petitioner No. 1 is put to notice that in the event of failure to comply with the order within the stipulated time, this order shall stand recalled without further reference to the Court.

10. To be listed for compliance on 23 January 2024.

Digitally
signed by
MANGALTAI
JAYWANT
JADHAV
Date:
2024.01.17
19:18:59
+0530

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