



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1385 OF 2021

Shabnam Mushtaque Khan & Ors.Petitioners

Vs.

The State of Maharashtra & Ors.Respondents

WITH

CRIMINAL WRIT PETITION NO.4425 OF 2024

Zoeb Mushtaque Ahmed KhanPetitioner

Vs.

The State of Maharashtra & Ors.Respondents

Mr. Khwaja Shaikh with Mr. Abhay G. Dolas, for Petitioners in both Writ petitions.

Smt. Mahalakshmi Ganapathy, APP for Respondents No.1 and 2-State in WP No.1385/2021.

Mr. Sukanta A. Karmakar, APP for Respondents No.1 and 2 -State in WP No.4425/2024.

Mr. Shadab S. Khan for Respondent No.3 in both Writ Petitions.

**CORAM : SARANG V. KOTWAL AND
DR. NEELA GOKHALE, JJ.**

DATE : 12th NOVEMBER 2024.

P.C.:-

1) These Petitions are being disposed by this common order today because they arise out of the same registered offence. In both

these Petitions, the prayer is for quashing of the offence registered vide C.R.No.536 of 2020 at Oshiwara Police Station under Sections 498-A, 406, 504, 506 read with 34 of the Indian Penal Code and under Sections 3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019. Writ Petition No.1385 of 2021 is preferred by the parents and the sister of the husband of the First Informant/Respondent No.3. The other Criminal Writ Petition is preferred by the husband of the First Informant, i.e., Respondent No.3. Criminal Writ Petition No.1385 of 2021 is filed on the merits of the matter. While it was pending, the parties have arrived at a settlement and therefore, the other Criminal Writ Petition No.4425 of 2024 is preferred on the grounds of settlement between the parties, as mentioned in paragraph No.6 of the said Petition.

2) Heard Mr. Shaikh, learned counsel for Petitioners, Smt.Ganapathy and Mr. Karmakar, learned AGP, for Respondents-State and Mr. Khan, learned counsel for Respondent No.3.

3) The F.I.R. is lodged by the Respondent No.3 on 10th November 2020. She has stated that her father has a business of selling furniture. The Respondent No.3 and the Petitioner Zoeb's marriage was fixed. It was an arranged marriage. The allegations are

that the Petitioners took Rs.1,00,000/- in cash and some further amount for purchasing clothes. The Informant's father spent expenditure of more than Rs.Two Lakhs to give ornaments and other gifts to the Petitioners' family and friends at the wedding. After the marriage, the First Informant started residing with the Petitioners. The F.I.R. mentions a few instances where she was harassed. The Petitioners said that the Informant's parents should have spent and given some more money in the wedding to them. She was beaten on a few occasions. Doubts were raised about her character. The Informant conceived. She went to her parents' place for her delivery. The Petitioners did not bother to ask about her well-being. Even after the delivery of her son, the Petitioners did not make any inquiry and did not visit the hospital to see the new born child. After that, there was a meeting between the two families, but there was no solution. It is alleged that Petitioner Zoeb uttered '*talaq*' three times and claimed that he had divorced the Respondent No.3. On these allegations, the F.I.R. is lodged.

4) After the F.I.R. was lodged, as mentioned earlier, the parties have now settled the dispute. The Respondent No.3 has filed her Affidavit. She is present in Court. She is identified by her

counsel. She reiterates her statements made in the Affidavit before the Court that she has no objection if the F.I.R. is quashed. The Affidavit mentions that the parties have arrived at a settlement and the Petitioners have agreed to pay Rs.9,00,000/- to her towards permanent alimony for herself and her child. Out of that an amount of Rs.4,50,000/- is already paid and the balance of Rs.4,50,000/- is yet to be paid. On these terms, she has given her clear no objection for quashing of the offence registered vide C.R.No.536 of 2020 at Oshiwara Police Station.

5) Both the learned counsel make a statement before the Court that subsequent to registration of the F.I.R., now the parties have obtained divorce before the *Kazi*.

6) As can be seen, it is a matrimonial dispute between the First Informant and her husband's family. Both the parties have amicably settled the matter. The Informant, who is present in the Court, through her Affidavit and through her statement before the Court has given no objection for quashing the F.I.R. Therefore, the F.I.R. can be quashed. However, the interest of the Respondent No.3 is to be safeguarded as the amount of Rs.4,50,000/- is yet to be paid. Hence, the following order:

ORDER

- i) The offence registered vide C.R.No.536 of 2020 at Oshiwara Police Station is quashed and set aside,
- ii) This order is subject to the Petitioners paying the balance amount of Rs.4,50,000/- to the Respondent No.3. If the said amount is not paid, the Respondent No.3 is at liberty to approach this Court again for recalling of this order.
- iii) With these observations and directions, the Petitions are disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)