

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

WRIT PETITION NO. 623 OF 2026

Saiyyada Khan And Ors.

...Petitioners

Versus.

The State of Maharashtra And Anr.

...Respondents

Mr. Yashpal Maheshchandra Thakur a/w Mr. Mukund Pandya, learned Advocates for the Petitioners.

Petitioner Nos. 4 & 8 are present in the Court.

Petitioner Nos. 1 to 3, 5 to 7 & 9 to 11 are appearing through VC.

Ms. Shilpa G. Talhar, learned A.P.P. for the State/Respondent.

Mr. Minhal Hussain a/w Mr. Salman Khan, Ms. Mumtaz Shaikh & Mr. Hassan Abbas, learned Advocates for Respondent No. 2.

Respondent No. 2 is present in the Court.

PI Mr. Sudhakar Shitap attached to LA-I Naigaon a/w PSI Mr. Ravindra Kelkar attached to V.B. Nagar Police Station, Kurla-West, Mumbai are present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 23rd FEBRUARY 2026.

P.C. :

1. Heard Mr. Yashpal Thakur, learned Advocate for the Petitioners, Ms. Shilpa Talhar, learned A.P.P. for the State/Respondent and Mr. Minhal Hussain, learned Advocate for Respondent No. 2.

2. This Petition is filed by the Petitioners under Article 226 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the First Information Report bearing M.E.C.R. No. 06 of 2023 dated 02.10.2023,

registered with Vinoba Bhave Nagar Police Station, Kurla-West, Mumbai, for offences punishable under Sections 354, 452, 506(2), 323, and 509 read with Section 34 of the Indian Penal Code, 1860, and under Section 8 of the Protection of Children from Sexual Offences Act (“POCSO Act”) (“Impugned FIR”). It also seeks to quash Charge sheet No. 101449 of 2024, registered as Sessions Case No. 1449 of 2024, pending before the learned Sessions Court at Greater Mumbai, arising from the impugned FIR.

3. Petitioners herein, along with two other accused persons, had previously approached this Court by filing Criminal Writ Petition No. 1648 of 2025. On 28.01.2026, this Court passed the following order in the said petition:-

“Writ Petition No. 1648 of 2025 is allowed to be withdrawn with liberty to file separate petitions qua each petitioners, if so advised. All contentions are kept open. Withdrawal of this writ petition shall not cause any prejudice to the petitioners when they lay a fresh challenge individually.”

4. Mr. Yashpal Thakur, learned Advocate for the Petitioners, submits that under the liberty granted by this Court, the Petitioners, against whom there are no allegations under the POCSO Act, are before this Court seeking to quash the FIR and the charge sheet registered as Session Case No. 1449 of 2024, pending before the 28th Court, Sessions Court at Greater Mumbai.

5. Mr. Yashpal Thakur, learned Advocate for the Petitioners, submits that the allegations leading to the registration of First Information Report bearing M.E.C.R. No. 06 of 2023 dated 02.10.2023, registered with Vinoba Bhave Nagar Police Station,

Mumbai, and the subsequent filing of the charge sheet, were due to a matrimonial dispute between Petitioner No. 2 (Mohsina Shahenshah Khan) and Mr. Mohammed Arif Khan, the son of Respondent No. 2. He states that Petitioner No. 2 had filed criminal proceedings under the Protection of Women from Domestic Violence Act, 2005 ("PWDVA"), as well as FIR bearing C.R. No. 11210050231050 of 2023 dated 01.08.2023, against Mr. Mohammed Arif Khan and his family members in the State of Gujarat, Rander Police Station, Surat City. He submits that upon a settlement agreement being reached between the Petitioners and Respondent No. 2 and his family members, the domestic violence proceedings and the FIR dated 01.08.2023 were quashed by the Hon'ble High Court of Gujarat at Ahmedabad in Special Criminal Application (Quashing) No. 13604 of 2023. He refers to the order dated 04.02.2025 (Exhibit-D Colly. at page nos. 251 to 259 of the Petition paper-book). He states that all the allegations in the present case related to insulting or outraging modesty, as well as the offences under the POCSO Act, are solely against Shahenshah Hussain Khan (Accused No. 1) and Riaz Bashiruddin Khan (Accused No. 7) in the crime bearing M.E.C.R. No. 06 of 2023. Mr. Yashpal Thakur has referred to the said allegations, which are against Accused No. 1 (Shahenshah Hussain Khan) and Accused No. 7 (Riaz Bashiruddin Khan).

6. Petitioner Nos. 4 & 8 are present in the court along with their advocate Mr. Yashpal Thakur. Petitioner Nos. 1 to 3, 5 to 7 and 9 to 11 are appearing via Video Conference. Mr. Yashpal Thakur identifies all the petitioners and submits photocopies of their Aadhar Cards as photo identity proof, which are taken on record

and marked as “**X Colly.**” for identification.

7. Respondent No. 2 (Mr. Mohd. Yunus Zameer Ahmed Khan) is present in Court with his Advocate, Mr. Minhal Hussain. Mr. Minhal Hussain identifies Respondent No. 2 and submits a photocopy of his Aadhar Card as photo identity proof, which is taken on record and marked as “**X-1**” for identification.

8. Mr. Minhal Hussain submits an Affidavit dated 12.02.2026, affirmed by Respondent No. 2 before Notary Advocate Mr. S. N. Dhange, Fort, Mumbai. The same is taken on record and marked as “**X-2**” for identification. Respondent No. 2, who is present in court, states that he has filed the said Affidavit dated 12.02.2026 (X-2) voluntarily, without any pressure, force, or coercion from anyone. He states that the contents of Affidavit (X-2) reflect his own statements. He reaffirms that the dispute between him/his family members and the Petitioners has been amicably resolved, and thus, he has no objection to the quashing of the criminal proceedings. He also confirms the statements made by Mr. Yashpal Thakur, recorded in Paragraph No. 5 hereinabove.

9. Mr. Yashpal Thakur and Mr.. Minhal Hussain, relying on the Affidavit (X-2) filed by Respondent No. 2, submit that the Petitioners and Respondent No. 2 have settled their dispute. They state that Petitioner No. 2 (Wife) and Mr. Mohammed Arif Khan (Husband), the son of Respondent No. 2, have decided to part ways. They assert that the dispute between the Petitioners and Respondent No. 2 and his family members has been amicably resolved. They submit that the matter between Petitioner No. 2

and Mr. Mohammed Arif Khan, which was mainly a matrimonial dispute, has been resolved. They further submit that Respondent No. 2 has no objection to quashing the criminal proceedings filed against the Petitioners. They also state that Respondent No. 2 has agreed to withdraw all criminal proceedings initiated by him against the Petitioners. Therefore, they request that the criminal proceedings not be continued and be quashed.

10. Ms. Shilpa Talhar, learned A.P.P. for the State/Respondent, submits that upon registration of the crime bearing M.E.C.R. No. 06 of 2023, the police machinery was set in motion based on the complaint of Respondent No. 2. She submits that the allegations in the present crime, which is punishable under the POCSO Act, are fully applicable and attracted to the case of Accused No. 1 (Shahenshah Hussain Khan) and Accused No. 7 (Riaz Bashiruddin Khan). She submits that, considering the amicable settlement reached between the Petitioners and Respondent No. 2, along with the statements made by Respondent No. 2 in the Affidavit (X-2) giving no objection to quashing the criminal proceedings against the Petitioners, the impugned FIR and the criminal proceedings arising from can be quashed. However, she insists on the imposition of exemplary costs on the parties.

11. Mr. Yashpal Thakur, learned Advocate for the Petitioners on instructions from Petitioner Nos. 4 & 8, who are present in the Court and Mr. Minhail Hussain, learned Advocate for Respondent No. 2 on instructions from Respondent No. 2, who is present in the Court, state that appropriate cost would be paid.

12. Perused the impugned FIR and the charge-sheet placed on record. Allegations as regards the offences in the impugned FIR and the material produced with the charge-sheet, which would be punishable under the POCSO Act and the alleged acts of insulting/outraging the modesty, are specifically made against Accused No. 1 (Shahenshah Hussain Khan) and Accused No. 7 (Riaz Bashiruddin Khan). There are no allegations against the Petitioners herein that would attract the offence punishable under the POCSO Act concerning the Petitioners.

13. In the case of ***Lovely Salhotra v/s. State (NCT of Delhi)***¹, the Hon'ble Supreme Court in paragraph no. 3 has held as follows :-

“3. We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants herein. The High Court was wrong in holding that the FIR cannot be quashed in part and it ought to have appreciated the fact that the appellants herein cannot be allowed to suffer on the basis of the complaint filed by Respondent 2 herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against Co-accused 2, 3, 4 and 6 prima facie. According to us, the FIR in question filed against the appellants herein by Respondent 2 is only an afterthought with the sole intention to pressurise the appellants not to prosecute their criminal complaint filed by them under Section 138 of the Negotiable Instruments Act, 1881.”

14. Considering the above facts, the submissions of the learned Advocates, the nature of the dispute, the fact that the matter has been amicably settled between the Petitioners and Respondent No. 2, the decision of the Hon'ble Gujarat High Court dated 04.02.2025

1. (2018)12 SCC 391.

passed in Special Criminal Application (Quashing) No. 13604 of 2023, the statements made on oath by Respondent No. 2 in the Affidavit (X-2), and the absence of any evidence to implicate the Petitioners under the POCSO Act, no useful purpose will be served by continuing the criminal prosecution. Having regard to the pronouncements of the Hon'ble Supreme Court in the cases of *Gian Singh v/s. The State of Punjab and Another*², *Narinder Singh and Others v/s. State of Punjab and Another*³ and *Parbatbhai Aahir Alias Parbatbhai Bhimsinbhai Karmur and Others Vs. State of Gujarat and Anr.*⁴, there is no impediment to allowing this Criminal Writ Petition.

15. In view of the above, the Criminal Writ Petition is allowed in terms of prayer clause (b), subject to the Petitioners and Respondent No. 2 each paying Rs. 50,000/- as a condition precedent. Consequently, the impugned FIR bearing M.E.C.R. No. 06 of 2023 dated 02.10.2023, registered with Vinoba Bhave Nagar Police Station, Kurla-West, Mumbai, and the charge-sheet bearing no. 101449 of 2024, registered as Sessions Case No. 1449 of 2024 and pending before the learned Sessions Court at Greater Mumbai, arising out of the impugned FIR, are quashed as against the Petitioners.

16. It is clarified that criminal proceedings shall continue against Accused No. 1 (Shahenshah Hussain Khan) and Accused No. 7 (Riaz Bashiruddin Khan).

17. Petitioners shall deposit the cost of Rs. 50,000/- in the

2. (2012)10 Supreme Court Cases 303.

3. (2014)6 Supreme Court Cases 466.

4. (2017) 9 SCC 641.

following account within a period of 3 weeks from today and furnish proof of deposit before the Registry of this Court by filing an Affidavit of compliance on or before 23.03.2026 :-

Bank Name : Axis Bank Limited
Branch Name : Worli, Mumbai (M.H.), Mumbai-400 025
Account Name : **Central Police Welfare Fund, Director General, MS, Mumbai**
Account Number : 914010029005759
IFSC Code : UTIB0000060

18. Respondent No. 2 shall deposit the cost of Rs. 50,000/- in the following account within a period of 3 weeks from today and furnish proof of deposit before the Registry of this Court by filing an Affidavit of compliance on or before 23.03.2026 :-

The High Court Employees Medical Welfare Fund at Mumbai
Account No.: 000120110001337
Bank : Bank of India
Branch : Mumbai Main
IFSC Code : BKID0000001

19. Criminal Writ Petition No. 623 of 2026 is disposed of in the above said terms.

[ASHWIN D. BHOBE, J.]

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KOTAWADEKAR
Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
Date:
2026.03.10
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