

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2938 OF 2014

Rajinder Kumar Bhutani
and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. A. R. Pande for the Petitioners.

Mr. M. a. Rathod for Respondent No.2.

Mrs. M. M. Deshmukh, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **December 24, 2014.**

P. C. :

1. This is petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of FIR/CR No.27 of 2014 against the Petitioners registered at Dindoshi, Police Station, Goregaon, Mumbai for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860 on 24th January 2014.

2. Petitioner No.3 and Respondent No.2 got married in the year 2008. Petitioner No.1 and Petitioner No.2 are the parents of Petitioner No.3. The matrimonial disputes led to the

filing of civil and criminal proceedings between the parties. One of those proceedings, is the FIR lodged by Respondent No. 2 against the Petitioners.

3. The learned Counsel appearing for the respective parties submitted that now the parties have settled their disputes amicably and in the anticipatory bail application proceedings before the Sessions Court at Dindoshi, namely, Anticipatory Bail Application No.126 of 2014, the parties have filed consent terms. The learned Counsel appearing for the respective parties submitted that in view of this settlement, the present petition is filed for quashing the criminal proceedings by consent.

4. In the present petition, Respondent No.2 has filed an affidavit dated 24th December 2014. In paragraph 4 of the said affidavit, she has stated that entire matrimonial dispute between herself and Petitioner No. 3 is duly settled and she does not want to prosecute the said FIR No. 27 of 2014. In paragraph 6 she has given her consent for quashing of the said FIR.

5. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the FIR in question initiated by her against the Petitioners for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

6. The Apex Court in B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386] has held that in the event of settlement of matrimonial dispute, the FIR under Section 498A can be quashed, even though, the said offence is not compoundable in terms of Section 320 of the Cr.P.C. The relevant observations of the Apex Court are contained in Paras 14 and 15 which are reproduced herein below:

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-

technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

Similar view has been taken by the Full Bench of this Court in Abasaheb Yadav Honmane vs. State of Maharashtra [2008(5) LJ.Soft 46].

7. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the crime. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan. Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are

already overburdened.

8. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the criminal proceedings. In the circumstances, writ petition is allowed in terms of prayer clause (b).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]