

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2 OF 2015

Saurav K. Singhal and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Hemali M. Sakhare for the Petitioners.

Mr. S. S. Karmakar for Respondent No. 2.

Mr. K. V. Saste, learned APP for the State.

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

Date : **January 15, 2015.**

P. C. :

1. By this petition under Article 226 of the Constitution of India and provisions of section 482 of the Code of Criminal Procedure, 1973, the Petitioner has sought for quashing of C.R.No. 749 of 2013 registered with Santacruz Police Station against them at the instance of Respondent No. 2 for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

2. Respondent No. 2 and Petitioner No. 1 got married on 9th December 2012. Due to differences of opinion, parties are residing separately since 17th February 2013. Matrimonial disputes gave rise to filing of civil as well as criminal proceedings by the parties against each other. Petitioner No. 1 filed proceedings for divorce. Respondent No.2 filed above stated FIR against the Petitioners.

3. the learned Counsel appearing for the respective parties submitted that dispute between the parties has been amicably settled and accordingly they agreed to obtain divorce by mutual consent. They submitted that consent terms are filed before the Family Court at Bandra, Mumbai in Petition No.A-1963 of 2013, a copy of which is placed on the record of this petition. They submitted in the lines of those consent terms, present petition is filed for quashing of the afore stated CR/FIR.

4. In the present petition, Respondent No.2 has filed an affidavit dated 14th January 2015. In the said affidavit, she has solemnly affirmed that she has no objection for quashing the proceedings of the CR No. 749 of 2013. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she has made the said statement in the 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 criminal proceedings 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.

5. 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].

6. 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.

7. 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 afore stated CR.

8. In the light of above, petition is allowed in terms of prayer clause (b). No order as to costs.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]