

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 32 OF 2015

Ganesh Parshuram Tamhankar
and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. M. R. Sabnis for the Petitioner.
Mr. H. M. Sakpal for. Respondent No.2.
Mr. F. R. Shaikh, learned APP for the State.

WITH
WRIT PETITION NO. 49 OF 2015

Tanuj Tanaji Durgavali
and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Harshad Sakpal for the Petitioner.
Mr. M. R. Sabnis for Respondent No.2.
Mrs. S. V. Sonawane, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **January 20, 2015.**

P. C. :

1. Heard. Writ Petition No.32 of 2015 is filed for quashing the proceedings of C.C.No.565/PW/2014 pending on the file of Metropolitan Magistrate's 65th Court, Andheri which has arisen from FIR No.170 of 2013 registered with Vile Parle Police Station at the instance of Respondent No.2 for the offences punishable under sections 498A and 406 read with 34

of the Indian Penal Code, 1860.

2. Writ Petition No.49 of 2015 is filed for quashing the proceedings of C.C.No.1998/PW/2013 pending on the file of Metropolitan Magistrate's 65th Court, Andheri which is outcome of FIR No.166 of 2012 registered with Vile Parle Police Station at the instance Respondent No.2-Ganesh for the offence punishable under sections 354B, 336, 337, 323, 504 read with 34 of the Indian Penal Code, 1860 against the Petitioners.

3. Ganesh-Respondent No.2 in Writ Petition No.49 of 2015 and Siddhi-Respondent No.2 in Writ Petition No.32 of 2015 got married on 26th May 2009. The matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings against each other. Ganesh approached Family Court with the petition for divorce. Ultimately compromise was arrived at between the parties and they filed consent terms in the said divorce proceedings. Marriage was dissolved by consent. Under the said consent terms, parties have also agreed to withdraw or not to proceed against criminal proceedings lodged against each other. On the lines of those consent terms, present writ petitions are filed for quashing the aforesaid criminal proceedings.

4. Siddhi-Respondent No.2 in Writ Petition No.32 of 2005 has filed affidavit dated 2nd December 2014 wherein she has solemnly affirmed that she is not interested in prosecuting the Petitioners and she has no objection for quashing

C.R.No.179 of 2013 registered with Vile Parle Police Station at her instance which has culminated into C.C.No. 565/PW/2014 pending on the file of the Metropolitan Magistrate's 65th Court, Andehri. Siddhi 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 criminal proceedings in question initiated by her against the Petitioners for the offence punishable under section 498A and 406 read with 34 of the Indian Penal Code, 1860.

6. Ganesh-Respondent No.2 in Writ Petition No. 49 of 2005 has also filed affidavit dated 2nd January 2015 wherein he has solemnly affirmed that he is not interested in prosecuting the Petitioners and he has no objection for quashing C.R.No.166 of 2013 registered with Vile Parle Police Station which is now numbered as C.C.No. 1998/PW/2013 pending on the file of Metropolitan Magistrate's 65th Court, Andehri. Ganesh is personally present before the Court. On specific query made by us, he submitted that he has made the said affidavit on his own free will, without there being any pressure or undue influence. He has further confirmed that he has no objection for quashing the criminal proceedings in question initiated by him against the Petitioners for the offences punishable under sections 354B, 336, 337, 323 and 504 read with 34 of the Indian Penal Code, 1860.

7. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaints, it transpires that the allegations are totally personal in nature. There is no element of public law involved. The offences alleged cannot be said to have any impact on the society. The limited difficulty for quashing in the present case is whether proceeding under section 498A of the Indian Penal Code, 1860 can be quashed. 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. 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]. Therefore, we find no difficulty in quashing the present proceedings for the offence punishable under section 498A of the Indian Penal Code, 1860. 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.

9. In the light of the principles laid down by the Apex Court in the aforesaid decisions 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 light of above discussion, following order is passed :

[A] The proceedings of C.C.No.565/PW/2014 pending on the file of Metropolitan Magistrate's 65th Court, Andheri which has arisen from FIR No.170 of 2013 registered with Vile Parle Police Station are hereby quashed.

[B] The proceedings of CC. No. 1998/PW/2013 pending on the file of Metropolitan Magistrate's 65th Court, Andheri which is outcome of FIR No.166 of 2012 registered with Vile Parle Police Station are hereby quashed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]