

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 36 OF 2015

Rahul Singh s/o Avtar Singh
and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. M. V. Vishwakarma for the Petitioners.

Mr. Pramod Pandey for Respondent No. 2.

Mrs. P. H. Kantharia, learned APP for the State.

Coram : RANJIT MORE &
R. G. KETKAR, JJ.

Date : **October 5, 2015.**

P. C. :

1. At the outset, learned Counsel appearing for the Petitioners seeks leave to amend the prayer clause so as to incorporate the particulars of criminal case pending before the JMFC, Vashi. Leave granted. Necessary amendment be carried out forthwith.

2. Heard. The petition is filed under Article 226 of the Constitution of India read with 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of RCC 126 of 2015 pending on the file of JMFC, Vashi. The said case is the result of registration of FIR No.I-281/2014 with Nerul Police Station against the Petitioners at the instance of Respondent No.2. The allegations in the FIR pertain to

the commission of the offence punishable under sections 498A, 406, 323 and 506 read with 34 of the Indian Penal Code, 1860.

3. Petitioner No.1 got married with Respondent No.2 in January 2002. The rest of the Petitioners are the family members of Petitioner No.1. Matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one another and the subject matter of present petition is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement. Pursuant to the same, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No.2

5. Affidavit dated 5th October 2015 has been filed by Respondent No. 2, wherein she has, interalia, stated that she is not interested in continuing with the criminal prosecution of the Petitioners in view settlement arrived at between herself and the Petitioners and decree of divorce by mutual consent being granted by the competent Court. She has further solemnly affirmed that she has no objection for quashing the proceedings against the Petitioners.

6. 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 criminal proceedings in question initiated by her against the the Petitioners for the offence punishable under sections 498A, 406, 323 and 504 read with 34 of the Indian Penal Code, 1860.

7. The Apex Court in B. S. Joshi vs. State of Haryana [AIR 2003 SC 1386] has held that in the event of settlement of matrimonial dispute, the FIR / proceedings 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 XX-A 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].

8. 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. The offence alleged cannot be said to have any impact on the society. 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. 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 question. Accordingly, petition is made absolute in terms of prayer clause (a-1).

9. Learned Counsel appearing for the Petitioner submitted that as a condition precedent for availing bail in the aforesaid FIR/proceedings, the Petitioners had deposited their passports with the Nerul Police Station. In the backdrop of quashing of FIR and criminal proceedings, passports will have to be released. Nerul Police Station will return the Passports to the Petitioners on their application.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]

Certificate

Certified to be true and correct copy of the original signed Judgment / Order.