

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 38 OF 2015

Kewal Krishan Lalchand Khullar
and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Ravi Gurmani i/b P. S. Hingorani for the Petitioners.

Mr. N. K. Singh for Respondent No. 2.

Mrs. U. K. Kejriwal, learned APP for the State.

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

Date : **February 24, 2015.**

P. C. :

1. By this petition filed under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, the Petitioners are seeking to quash the proceedings of C.C.No. 626/PW/2010 pending on the file of the Metropolitan Magistrate, 53rd Court, Mulund, Mumbai. The said case has arisen from FIR No. 129 of 2010 registered with Kanjurmarg Police Station against the Petitioners 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 got married with Vishal on 24th July 2008. the Petitioners herein are the family members of said Vishal - deceased husband of Respondent No.2.

3. The learned Counsel appearing for the respective parties submitted that disputes between the parties are amicably settled and in pursuant of such understanding arrived at between the parties, the Petitioners have approached this Court seeking to quash the said criminal proceedings, by consent of Respondent No.2.

4. Respondent No.2 has filed an affidavit dated 22nd February 2015. In the said affidavit, she has stated that she has no objection for quashing the proceedings of the criminal case No. CC No.626/PW/2010 pending in the Court of the Metropolitan Magistrate, 53rd Court, Mulund, Mumbai.

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 Petitioners for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

7. 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].

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 case. 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.

9. 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.

10. Accordingly, petition is made absolute in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]