

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 79 OF 2015

Harish Dagadu Sathe & Ors.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Mr. C.T. Chandratre for Petitioners.

Smt. Deepali Sathe, Respondent No.2-in person, present.

Mr. J.P. Yagnik, APP, for Respondent No.1-State.

**CORAM : RANJIT MORE &
 M.L. TAHALIYANI, JJ.**

DATED : MARCH 11, 2015.

P.C.

Heard Mr. C.T. Chandratre, learned counsel for the
Petitioners and Smt. Deepali Sathe, Respondent No.2-in person.

2. This petition is filed under Article 226 of the Constitution of India read with provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of R.C.C. No. 248 of 2012 pending on the file of Judicial Magistrate, First Class, Panvel. Said case has arisen from the proceedings of FIR No. I-399/11 registered with Kalamboli Police Station, New Bombay against the Petitioners at the instance of Respondent No.2 for the offences punishable under Sections 498-A and 506 read with Section 34 of the Indian Penal Code, 1860.

3. Respondent No.2 and Petitioner No.1 got married on 5-5-2011. Couple could not make it to happy marital life. Matrimonial disputes gave rise to filing of civil as well as criminal proceedings by parties. Subject matter is one of the criminal proceeding.

4. Learned counsel appearing for the respective parties submitted that the parties have settled their disputes by filing consent terms in the Court of Additional Metropolitan Magistrate, Ballard Estate, in the proceedings under the Protection of Women from Domestic Violence Act, 2005. The parties also agreed to get quashed the proceedings of R.C.C. No.248 of 2012, by consent. In pursuance of such understanding, the Petitioners have filed present writ petition for quashing by consent.

5. Respondent No.2 has filed an affidavit dated 11th March, 2015. In paragraph 2 of the said affidavit, she has given no objection to allow the aforesaid petition. In paragraph 3, she has stated that since she has got divorce decree, she has no objection for quashing the proceedings of said criminal case. Respondent No.2 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has fully understood the contents

thereof and has no objection, if the proceedings arising out of the said criminal case are quashed.

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 hypertechnical 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 nonexercise 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.”

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 offence. 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.

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 proceedings of R.C.C. No. 248 of 2012 pending on the file of Judicial Magistrate, First Class, Panvel, arising from FIR No.I-399/2011.

9. In view of the above, the Writ Petition is allowed in terms of prayer clause (a). The proceedings of R.C.C. No.248 of 2012 pending on the file of Judicial Magistrate, First Class, Panvel, arising from FIR No.I-

399/2011 registered at Kalamboli Police Station, Tal.Panvel, Dist. Raigad, is hereby quashed.

10. Writ Petition stands disposed of.

[M.L. TAHALIYANI, J.]

[RANJIT MORE, J.]