

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 133 OF 2015

Pranav S. Kabra.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Shabana Salmani i/b Sunil N. Gomase for the Petitioner.

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

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

Date : **February 2, 2015.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner as well as the learned Counsel appearing for Respondent No.2 and learned APP for the State. This is petition under Article 226 of the Constitution of India and under the provisions of section 482 of the Code of Criminal Procedure, 1973 seeking quashment of the proceedings of two FIRs, viz., FIR No.106 of 2013 registered with Charkop Police Station by Respondent No.2 against the Petitioner and his parents for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860 and FIR No.21 of 2013 registered with Malwani Police Station by Respondent No. 2 against the Petitioner for the offence punishable under section 420, 465, 467 and 471 of the Indian Penal Code, 1860.

2. The Petitioner and Respondent No.2 got married on 27th November 2005. Differences of opinion gave rise to

the matrimonial disputes, which resulted into filing of civil as well as criminal proceedings by the parties against each other. Parties went for the divorce by mutual consent under the provisions of section 13-B of the Hindu Marriage Act, 1955. Respondent No. 2 filed above referred two FIRs. So far FIR No. 106 of 2013 is concerned, after the investigation the police has filed charge-sheet in the Court of 24th Metropolitan Magistrate, Borivali, Mumbai where the proceedings have been given CC.No. 1504/PW/2014. The investigation in FIR No.21 of 2013 is in progress.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above said proceedings, the parties have settled their disputes amicably and have obtained divorce by mutual consent and have also agreed to withdraw the criminal proceedings by consent and pursuant to that understanding, present petition is filed for quashing by consent.

4. In the present petition, Respondent No.2 has filed affidavit dated 9th January 2015. In paragraph 7 of the said affidavit, she has stated that she has no objection for quashing the proceedings of the FIR bearing Nos. 106 of 2013 and 21 of 2013 filed by her.

5. 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 Petitioner and his parents.

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 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].

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 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.

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 criminal proceedings. In that view of the matter, petition is made absolute in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]