

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 42 OF 2015

Mr. Rahil Aftab Shaikh & Ors.

..Applicant

v/s.

The State of Maharashtra & Anr.

..Respondents

Mrs. Farhana Shah for the Applicant.

Mrs. M.M.Deshmukh, APP for the Respondent/State.

Mr.B.A.Mulla for the Respondent No.2.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JANUARY 29, 2015.**

P.C.

1. The applicant has filed the present application under section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside the FIR bearing C.R.No. 303 of 2014 dated 22.9.2014 registered at the instance of the respondent no.2 against applicant with Charkop Police Station, Mumbai for offence punishable under Section 380, 454 r/w. 34 of the Indian Penal Code.

2. The applicant no.1 and the respondent no.2 got married in the year 1995. The matrimonial dispute between them gave rise to filing

of several FIRs including the FIR which is the subject matter of the present application.

3. During pendency of the investigation of said FIR parties have settled their disputes amicably, and in pursuance of the understanding between them, present application is filed for quashing the proceeding of the abovesaid FIR by consent. The Respondent No.2 has filed an affidavit dated 5.1.2015. In paragraph 5 of the said affidavit, she has given no objection to quash the proceeding of the above referred FIR.

4. Respondent no.2 is personally present in the court. On specific enquiry she confirms that she is withdrawing all the allegations made against the applicant and that she has made the 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 applicant for the offence punishable under sections 380, 454 r/w. 34 of the Indian Penal Code, 1860.

5. 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 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 Para 15 which are reproduced herein below:

“15. 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.”

6. 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. 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.

7. 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.

8. Accordingly, application is allowed in terms of prayer clause (a).

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)