

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

CRIMINAL WRIT PETITION NO. 138 OF 2014

Vishal S/o. Ajay Bajla & Ors. .. Petitioners

v/s.

The State of Maharashtra & Anr. ..Respondents

Ms. Kavita A. Gandhi for the petitioner

Mr. A.M. Sarogi for respondent no.2

Mrs. M.H. Mhatre APP for the respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 21st APRIL, 2015.

P.C.

1. Learned Counsel for the petitioners seeks leave to amend the prayer clause so as to give particulars of criminal case number. Leave is granted. Necessary amendment shall be carried out forthwith.

2. Heard. This petition is filed under Article 226 of the Constitution of India under the provisions of Section 482 of the

Cr.P.C. for quashing the criminal proceedings of Criminal Case No. 381 of 2010, pending on the file of learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai. The said case arises out of registration of FIR No.89 of 2010 registered with Navghar Police Station, Mumbai against the petitioners at the instance of respondent no.1 for the offence punishable under Sections 498-A, 406 of the IPC.

3. The petitioner no.1 married to respondent no.2. Petitioner nos. 2 and 3 are the family members of petitioner no.1. Matrimonial dispute between the parties gave rise to filing of the subject F.I.R., which culminated in registration of the criminal case being C.C. No.381 of 2010, pending on the file of learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai.

4. During the pendency of the trial, parties have settled their dispute amicably and in pursuance of the understandings arrived at between them, they have filed the present writ petition for

quashing the criminal proceedings of said C.R., by consent. Respondent no.2 has filed an affidavit dated 18th January, 2014. In paragraph no.3, she has given no objection for allowing the present writ petition. Respondent no.2 is personally present in the Court. On specific query made by us, she submitted that she has no objection for quashing the FIR and consequential criminal proceedings.

5. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of the complaint, it would reveal that the dispute between the parties is purely a matrimonial dispute. In that view of the matter, we find that in the interest of justice, the criminal proceedings are required to be 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 498-A

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.”

7. Accordingly, the Writ Petition is made absolute in terms of prayer clause (A). The FIR No.89 of 2010 registered by the Navghar Police Station, Mumbai against the aforesaid applicants

being C.C. No.381 of 2010, pending on the file of learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai is quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)