

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 461 OF 2014**

Shamshuddin Abdullah Khan & Ors. .. Petitioners

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. N.A. Jafri for the petitioners

Mr. Sahil Mahajan a/w Ms. Chitra Salunke for respondent no.2

Mr. J.P. Yagnik, APP for the respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED: 25th JUNE, 2015.**

Not on Board. Upon mentioning, taken on production board.

P.C.

1. Heard learned Counsel for the respective parties.

2. This petition is filed under Article 226 of the Constitution of India under the provisions of Section 482 of the Cr.P.C. to quash and set aside the proceedings of the Criminal Case No.870/PW/2009, pending on the file of learned Metropolitan Magistrate's 34th Court, Vikhroli, Mumbai. The said case arises out of registration of FIR No.182 of 2009 registered with Nehru

Nagar Police Station, Kurla, Mumbai at the instance of respondent no.2 for the offence punishable under Sections 498A, 406 r/w 34 of the IPC.

3. The petitioner no.1 was married to respondent no.2 on 26.05.2002. Matrimonial dispute between the parties give rise to the filing of the civil as well as criminal proceedings against each other. The subject matter of the present petition is one of them.

4. Pending trial of the said case, parties have settled their dispute amicably and filed terms of settlement before the learned Metropolitan Magistrate, 45th Court at Kurla in C.C. No.1/Misc./2011 and in pursuance of the said understanding, present petition is filed for quashing the proceedings of the said criminal case, by consent. Respondent no.2 has filed affidavit dated 29.04.2014. In paragraph 8, she has given no objection for quashing the proceedings of the said criminal case. 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.182 of 2009 registered by Nehru Nagar Police Station, Kurla, Mumbai against the aforesaid petitioners being C.C. No.870/PW/2009 is quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)