

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

CRIMINAL WRIT PETITION NO. 852 OF 2015

Mrs. Chitra Sachin Mahadik .. Petitioner

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. S.A. Sawant i/b A.P. Deshmukh for the petitioner
Mrs. U.V. Kejriwal, APP for the respondent State

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

DATED: 18th MARCH, 2015.

PC.

1. Mr. Sawant, learned Counsel for the petitioner, at the outset, seeks leave to amend the prayer clause so as to give particulars of the Criminal Case number. Leave is granted. Necessary amendment shall be carried out forthwith.

2. The complainant herself has approached this Court by invoking powers under Section 226 of the Constitution of India to quash and set aside the C.R. No.165 of 2014, registered with

Kanjur Marg Police Station, Mumbai against the respondent no.2 for the offence punishable under Sections 324, 406, 342, 504, 498A r/w 34 of the IPC. The petitioner has filed the said complaint against the respondent no.2 and mother of respondent no.2.

3. The petitioner and respondent no.2 got married on 14.12.2005. Matrimonial dispute between them gave rise to file the subject FIR. Meanwhile, the parties have settled their dispute amicably and in pursuance of the understanding arrived at, filed the present petition for quashing the criminal proceedings. In paragraph 5 of the petition, the petitioner has stated that considering the interest of the minor child, she has decided to withdraw the said complaint as the respondent no.2 has undertaken that he will lead peaceful life with her. She has stated that she may be allowed to withdraw the complaint or in the alternative to quash the same.

4. Mrs. Kejriwal, learned APP states that respondent no.2 and his mother are accused in the said C.R. No.165 of 2014 and since the mother of the respondent no.2 is not impleaded as respondent in the present petition, FIR can be quashed qua the respondent no.2 and not against the mother of the respondent no.2. The petitioner is personally present in the Court. On specific query made by us, she states that she does not want to proceed with the said FIR. She further submitted that the said FIR can be quashed against the respondent no.2. as well as mother of respondent no.2.

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 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.”

6. Accordingly, the Criminal Application is allowed in terms of prayer clause (a).

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)