

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 194 OF 2015

Aslam Nazir Sayyed and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Raziya Shaikh Badruddin for the Applicants.

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

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

Date : **March 24, 2015.**

P. C. :

1. The Applicants have approached this Court invoking the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of CC No.1817/PW/2012 pending on the file of Additional Chief Metropolitan Magistrate, 65th Court at Andheri, Mumbai. The said case is the result of CR/FIR No.227 of 2009 registered with Oshiwara Police Station at the instance of Respondent No.2 against the Applicants for the offence punishable under sections 498A, 342 and 354 read with 34 of the Indian Penal Code, 1860.

2. Applicant No.1 and Respondent No.2 are the husband wife whereas rest of the Applicants are the family members of Applicant No.1. The learned Counsel appearing for the Applicants submitted that Applicant No.1 and Respondent No.2 got married on 20th December 2002 as per the Muslim rites

and ceremonies. Some unfortunate matrimonial disputes led to the filing of civil and criminal proceedings between the parties. The subject matter of the present application, viz., FIR No.227 of 2009, is one of those proceedings. After investigation, police filed charge-sheet and case has reached the Court of the Metropolitan Magistrate.

3. Counsel further submitted that parties settled all their disputes and now couple is leading happy married life and therefore the Applicants have filed present application for quashing the aforesaid criminal proceedings, by consent of the Complainant – Respondent No.2 herein.

4. In this application, Respondent No.2 has filed an affidavit dated 26th February 2015, wherein she has solemnly affirmed that since 1st September 2014 she is cohabiting with Applicant No.1-her husband. She has further stated that she is withdrawing the entire allegation and contains in C.R.No. 227 / 2009 and that in the light of settlement, she is consenting to quash the FIR in question.

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 Applicants vide C.R. No.227 of 2009 registered with Oshiwara Police Station.

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. The continuation of criminal proceedings in the instant case would unnecessarily give rise to the misunderstanding in the marital life of the parties. 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.

7. 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) L.J.Soft 46].

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

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]