

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

CRIMINAL WRIT PETITION NO. 1026 OF 2015

Elias Ghosalkar & Ors.

.. Petitioners

v/s.

The State of Maharashtra & Ors.

..Respondents

Ms. Devika Deshmukh i/b N.V. Khaladkar for the petitioners

Mr. K. Akhtar for respondent no.2.

Mrs. S.V. Sonawane, APP for the respondent State

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

DATED: 25th MARCH, 2015.

P.C.

1. Learned Counsel for the petitioners, at the outset, seeks leave to amend the petition so as to withdraw the allegations made in paragraph 1 of the petition against the respondent no.2. Leave is granted. Necessary amendment shall be carried out forthwith.

2. The petitioners have approached this Court invoking

jurisdiction of this Court 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 C.R. No.PW-1082/2008, pending on the file of learned Additional Chief Metropolitan Magistrate 52nd Court, Kurla, Mumbai. The said case arises out of registration of FIR No.106 of 2008 with Vinoba Bhave Nagar Police Station, Mumbai against the petitioners at the instance of respondent no.2 for the offence punishable under Sections 498A, 406, 317 r/w 34 of the IPC.

3. The petitioner no.1 and respondent no.2 are husband and wife. Rest of the petitioners are family members of the petitioner no.1. Matrimonial dispute between the parties led to filing of the civil as well as criminal proceedings against each other. The subject matter of the present petition is one of them.

4. During the pendency of the trial of the above referred criminal cases, parties have settled their dispute amicably and in

pursuance of the said understanding, they have filed the present petition for quashing the above referred FIR, by consent. Respondent no.2 has filed an affidavit dated 25th March, 2015. In paragraph 11, she has given no objection for quashing of the said criminal case. The respondent no.2 is personally present before 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.106 of 2008, registered by the

Vinoba Bhave Nagar Police Station, Mumbai against the aforesaid petitioners being C.C. No. PW-1082 of 2008 is quashed and set aside.

7. Parties to act on copy of this order duly authenticated by the Associate of this Court.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)