

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 244 OF 2015

Ashdin Mackey Pthawala and Others. ..Applicants.

Versus

State of Maharashtra. ..Respondent.

Mr. Ajay Talreja for Applicant No. 1 and 2.

Mr. Ashish Sharma for Applicant No. 3.

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

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

Date : **March 24, 2015.**

P. C. :

1. This application is filed jointly by the accused and complainant invoking the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of C.R.No. 82 of 2014 registered on 19th March 2014 at Kalachowki Police Station for the offence punishable under sections 498A, 406, 323, 324, 506 and 506(II) of the Indian Penal Code, 1860. The said CR came to be filed against Applicant Nos.1 and 2 at the instance of Applicant No.3.

2. Applicant No.1 and Applicant No.2 are the husband and wife. The marital disputes between the parties led to filing of civil and criminal proceedings. Present C.R. is one of them.

3. The learned Counsel appearing for the respective parties submitted that parties have resolved their disputes amicably and filed consent terms in Suit No.3 of 2015 before the Parsi Chief Matrimonial Court at Mumbai. Under clause (2) thereof, Applicant No.3 has withdrawn all allegations made in the above mentioned CR. Learned counsel submitted that in terms such understanding arrived at, the Applicants have filed present application for quashing the aforesaid C.R.

4. Applicant No.3 has also filed affidavit, wherein she has stated that she does not want to continue / pursue with her complaint. In paragraph 7, she has given no objection for quashing the said FIR.

5. Applicant No.3 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 FIR in question initiated by her against Applicant No. 1 and 2.

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 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) LJ.Soft 46].

7. 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 case. 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.

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 FIR.

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

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]