

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION No. 1240 OF 2015

Abdul Subhan Shaikh and Others. ..Petitioners.

Versus

Mrs. Zeenat Abdul Subhan Shaikh
and Another. ..Respondents.

Ms. P. G. Bhatia for the Petitioners.
Ms. Saima Sothe for S. P. Associates for Respondent No.1.
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **March 30, 2015.**

P. C. :

1. The Petitioners have approached this Court invoking the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, seeking to quash the criminal proceedings of C.C.No.31/PW/2014 pending on the file of Metropolitan Magistrate, 22nd Court, Andheri, Mumbai and Case No.68/DV/2012 pending on the file of Metropolitan Magistrate, 21st Court, Bandra, Mumbai. The C.C.No. 31/PW/2014 has arisen out of the FIR No.263 of 2013 registered at MIDC Police Station against the Petitioners at the instance of Respondent No.1 for the

offence punishable under sections 406, 420 and 498A read with 34 of the Indian Penal Code, 1860 whereas Case No. 68/DV/2012 is initiated by Respondent No.1 against the Petitioners under the provisions of the Protection of Women from Domestic Violence Act, 2005.

2. Petitioner No.1 and Respondent No.1 got married on 20th May 2010. Other Petitioners are the family members of Petitioner No.1. The matrimonial disputes gave rise to the filing of above proceedings.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above proceedings, parties settled their disputes amicably and have accordingly filed settlement terms dated 19th March 2015 in Case No.68/DV/2012. They further submitted that in terms of the understanding arrived at between the parties, the Petitioners have filed present petition for quashing the above criminal proceedings, by consent of Respondent No.1. They further submitted that in the light of settlement of all the issues between the parties, present petition deserves to be allowed.

4. Respondent No.1 has filed affidavit before this Court. In para-3 of the said affidavit, she has solemnly affirmed that she has no objection for quashing the proceedings of criminal case No. CC No. C.C.No.31/PW/2014 pending on the file of Metropolitan Magistrate, 22nd Court, Andheri, Mumbai and Case No.68/ DV/2012 pending on the file of Metropolitan Magistrate, 21st Court, Bandra, Mumbai.

5. Respondent No.1 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 Petitioners, namely C.C.No.31/PW/2014 and Case No.68/ DV/2012.

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) L.J.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 crime.

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 criminal proceedings. In the circumstances, petition is made absolute in terms of prayer clauses (a) and (b).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]