

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1280 OF 2015

Raghunath V. Dhumal and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Sandesh V. More for the Petitioners.

Ms. Preeti D. Ghadge for the Respondent no.2.

Mrs. M. M. Deshmukh, learned APP for the State.

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

Date : **April 9, 2015.**

P. C. :

1. The Petitioners have approached this Court invoking the jurisdiction of this Court under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of RCC No.1100416 of 2010 pending on the file of Metropolitan Magistrate, 11th Court, Kurla, Mumbai. The said case has arisen from the C.R.No. 206/ 2009 registered with Chembur Police Station, Mumbai against the Petitioners at the instance of Respondent No.2 for the offence punishable under sections 498A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No.1 and Respondent No.2 are the husband and wife. Rest of the Petitioners are the family members of Petitioner No. 1. Matrimonial disputes between the parties gave rise to the filing

of civil as well as criminal proceedings by the parties and subject matter of the present writ petition is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal case, parties have come together and settled their all disputes amicably and pursuant to the understanding arrived at between them, the Petitioners have filed present petition for quashing subject proceeding, by consent.

4. In the instant petition, Respondent No.2 has filed an affidavit wherein she has stated that all disputes between herself and the Petitioners have been amicably settled. They are in the process of obtaining divorce by mutual consent. In paragraph 5 of the said affidavit, she has stated that she supporting the present petition and she does not want to proceed with the prosecution of the Petitioners in subject case. She has solemnly affirmed that she she has no objection for quashing the proceedings of RCC No. 1100416/2010.

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 Petitioners.

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 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 subject criminal proceedings. Petition is, therefore, made absolute in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]