

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1332 OF 2015**

Deepak Rajendraprasad Sharma ..Petitioner
v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. A.M.Saraogi for the Petitioner.
Mr.V.V.Ugle, APP for the Respondent No.2.
Mrs.PH.Kantharia for the State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : APRIL 30, 2015.**

P.C.

1. Heard. The present petition is filed under Article 226 of the Constitution of India r/w. the provisions of section 482 of the Code of Criminal Procedure, 1973 to quash and set aside the proceedings of Case No.335/DW/2013 pending on the file of the Metropolitan Magistrate's 17th Court, at Borivali, Mumbai. The said case arises out of registration of FIR No.296 of 2012, with the Samtanagar Police Station, Mumbai, at the instance of respondent no.2 against the petitioner and the respondent nos.3, 4 and 5 for the offence punishable under Section 498A r/w. Section 34 of the Indian Penal Code.

2. The petitioner and the respondent no.2 are husband and wife. The matrimonial dispute between the petitioner and respondent no.2 gave rise to filing of the subject criminal case. During pendency of the trial, the parties have settled their dispute amicably and are residing together. The present, petition accordingly is filed to quash and set aside the subject criminal case. The respondent nos.3, 4 and 5 are the family members of the petitioner. However, since they are not available for signature they have been impleaded as respondent.

3. Respondent No.2 has filed an affidavit dated 30.4.2015. In paragraph 3 she has given no objection to allow this writ petition in terms of prayer clauses (a) and (b).

4. Respondent No. 2 is personally present before the Court. On specific query made by us, she submitted that she has made the said statement in the affidavit on her own free will, without there being any pressure or undue influence. She states she has gone through the affidavit and understood the contents of the same. She has further confirmed that she has no objection for quashing the criminal proceedings in question initiated by her against the Petitioner and the respondent nos.3 to 5 for the offence punishable under sections 498A

r/w.34 of the Indian Penal Code, 1860.

5. 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.”

6. 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. 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.
9. Accordingly, petition is allowed in terms of prayer clause (a).
Case No.335/DW/2013 arising out of FIR No.296 of 2012

registered under the provisions of 498A r/w. 34 IPC is quashed and set aside against the petitioner and the respondent nos.3 to 5.

10. So far as prayer clause (b) is concerned, Mr. Saraogi, submitted that an amount of Rs.12 lakhs is deposited by the petitioner in the Court of Metropolitan Magistrate's 17th Court, Borivali, Mumbai, in pursuance of the order passed in the Anticipatory Bail Application No. 774 of 2012. Mr. Saraogi, having taken instructions from his client who is present in the court states that after withdrawal of the amount, the petitioner would deposit an amount of Rs.15 lakhs in the name of the minor daughter Ms. Ishana Deepak Sharma, till she attains majority. Statement accepted.

11. Since the proceedings of the criminal proceedings is quashed, we are granting the permission to the petitioner to withdraw the said amount of Rs.12 lakhs alongwith interest accrued thereon and deposit Rs.15 lakhs in the name of Minor daughter Ishana Deepak Sharma till she attains majority.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)