

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 303 OF 2015

Mohammad Rizwan Moh.

Iqbal Sayed.

..Applicant.

Versus

Smt. Soma Sarkar w/o Mohd.

Rizwan Sayed and Another.

..Respondents.

Mr. A. S. Rajjadhyaksha for the Applicant.

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

Ms. Archana P. Naik for Respondent No. 1.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **April 9, 2015.**

P. C. :

1. This application is filed under section 482 of the Code of Criminal Procedure, 1973 seeking to quash the proceedings of CC No.665/PW/2015 pending on the file of Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai. The said proceeding has arisen out of FIR No.256 of 2014 registered with Oshiwara Police Station on 17th July 2014. The said C.R. is registered against the Petitioner at the instance of Respondent No.1 for the offence punishable under sections 498A, 494, 323 and 504 of the Indian Penal Code, 1860.

2. The Petitioner and Respondent No.1 are the husband and wife. Matrimonial disputes between them gave rise to the filing of above mentioned criminal proceeding. The learned Counsel appearing for the respective parties submitted that during the pendency of above proceeding, parties settled their disputes amicably and in pursuance of the understanding arrived at between them, the Applicant has filed the present application for quashing, by consent.

3. Respondent No.1 has filed affidavit dated 8th April 2015. In paragraph 2 of the said affidavit, she has stated that she is not interested in continuing with the criminal case and desirous of withdrawing the case lodged by her against the Applicant. She has solemnly affirmed that she has no objection for quashing the above FIR / proceedings.

4. 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 Applicant for the offence punishable under sections 498A, 494, 323 and 504 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.”

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].

6. In the present case, 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.

7. In the light of 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.

8. Accordingly, application is allowed in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]