

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION No. 398 OF 2015**

Lais Abdul Hamid Shaikh.

..Applicant.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Y. A. Shaikh for the Applicant.

Mr. R. A. Shaikh for Respondent No. 2.

Mrs. P. H. Kantharia, learned APP for the State.

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

Date : **April 28, 2015.**

P. C. :

1. This is application under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the FIR No. 561 of 2014 registered at Malwani Police Station against the Applicant. The said FIR is registered at the instance of Respondent No. 2 for the offence punishable under sections 498A and 406 of the Indian Penal Code, 1860.

2. The Applicant and Respondent No.2 are the husband and wife. Matrimonial disputes between the parties gave rise to the filing of subject FIR. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and

intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement. Pursuant to the same, present application is filed quashing the above FIR, by consent of Respondent No. 2

3. In the present application, filed under section 482 of the Code of Criminal Procedure, 1973, Respondent No.2 has sworn an affidavit dated 24<sup>th</sup> April 2015 and supported the application. In paragraph 7 of the said affidavit, she has stated she has given her full and absolute consent and no objection for quashing the FIR 561 of 2014 registered at Malwani Police Station against the the Applicant.

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 FIR bearing No. 561 of 2014 initiated by her against the Applicant.

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. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of FIR, 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 FIR alive except putting the parties, who are spouses, to further hardship and inconvenience and burdening the Criminal Courts which are already overburdened.

7. 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 FIR. In the light of above, FIR bearing No.561 of 2014 dated 12/11/2014 registered at Malwani Police Station is hereby quashed.

**[SMT. ANUJA PRABHUDESSAI, J.]**

**[RANJIT MORE, J.]**