

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1712 OF 2015

Jayanti Partha Basu.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Vijaykumar K. Garad for the Petitioner.

Mr. K. V. Saste, learned APP for the State.

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

Date : **June 24, 2015.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State. The Complainant herself has approached this Court under Article 226 of the Constitution of India and under the provisions of section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of C.C.No.3590/PW/2008 pending on the file of Metropolitan Magistrate, 17th Court, Borivali, Mumbai. The said case has arisen out of CR/FIR No.374/2005 registered with Samatanagar Police Station against Respondent No.2 at the instance of the Petitioner. The gravamen of allegations is commission of the offence punishable under section 498A and 506II of the Indian Penal Code, 1860.

2. The Petitioner and Respondent No.2 are husband and wife. The Petitioner is personally present in the Court. She

voluntarily submitted that she has no grievance against Respondent No.2 and she does not want to proceed with the said complaint. She at her own submitted that the proceedings of the said case be quashed and set aside.

3. The Complainant is before this Court seeking quashing of her own complaint against her husband for the offence punishable under section 498A. 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].

4. We adverted to the contents of the Petitioner's complaint. 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.

5. 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 proceeding. Accordingly, petition is made absolute in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]