

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 500 OF 2015

Jyotsana Kiran kale.

..Applicant.

Versus

Shravani Santosh Ambekar
and Another.

..Respondents.

WITH

CRIMINAL APPLICATION No. 501 OF 2015

Santosh R. Ambekar & Ors.

..Applicants.

Versus

Shravani Santosh Ambekar
and Another.

..Respondents.

Ms. Shivangi J. Rajak for the Applicants.

Mr. Mayur D. Sapkale for Respondent No.1.

Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **June 15, 2015.**

P. C. :

1. The Applicants are seeking to quash FIR against them bearing CR No.72 of 2015 registered with Vikroli Police Station at the instance of Respondent No.1 for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860. The Applicants are the accused in the said CR, who have invoked the jurisdiction of this Court under section 482 of the Code of Criminal Procedure, 1973 to quash the said FIR by consent of the original complainant Respondent No.1 herein.

2. Applicant No.1 in APL No. 501 is the husband of Respondent No.1 and rest of the Applicants are his family members. The Applicant in APL is the sister-in-law of Respondent No. 1. Matrimonial disputes between the parties gave rise to the filing of above FIR.

3. 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 amicably settled their differences by way of mutual settlement. Pursuant to the same, present applications are filed for quashing the above FIR, by consent of Respondent No.1

4. In the present applications filed under section 482 of the Code of Criminal Procedure, 1973, Respondent No.1 has filed separate affidavits dated 27th May 2015 wherein she has stated that she is not interested in continuing with the said FIR. She has solemnly affirmed that she is withdrawing all the allegations made against the Petitioner in the said FIR and that she has no objection for quashing the proceedings of FIR bearing No. 72 of 2015 registered by her with Vikhroli Police Station against the Applicants.

5. Respondent No.1 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavits 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 in question lodged by her against the Applicants for the offence punishable under sections 498A and 406 read with of the Indian Penal Code, 1860.

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 FIR in question. In the circumstances, applications are allowed in terms of prayer clause (b).

9. The learned Counsel appearing for Respondent No.1

sought directions to the police to return the jewellery recovered or attached by the police during the course of investigation into above FIR. The learned Counsel appearing for the Applicants in both the applications, after taking instructions from her clients, states that the Applicants have no objection for return of the said jewellery to Respondent No.1. Respondent No.1 shall make a proper application to the police for return of jewellery. Upon such application, police will take appropriate decision within a week of its filing.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]