

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2296 OF 2015

Viraj R. Savla. ..Petitioner.
Versus
Ramnik K. Savla & Others. ..Respondents.

Ms. R. S. Shah for the Petitioner.
Mr. Paras Nivira for Respondent No.3.
Mrs. M. H. Mhatre, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **June 18, 2015.**

P. C. :

1. Heard. By this writ petition under Article 226 of the Constitution of India and also under the provisions of section 482 of the Code of Criminal Procedure, 1973, the Petitioner is seeking to quash the proceedings of C.C.No.755/PW/2014 pending on the file of Metropolitan Magistrate, 25th Court, Mazgaon, wherein the Petitioner and Respondent Nos.1 and 2 are being prosecuted for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860. The said proceedings is the off-shoot of FIR No.45 of 2014 registered with Bhaykhala Police Station, Mumbai at the instance of Respondent No.3.

2. Petitioner and Respondent No.3 are the husband and wife. Respondent No. 1 and 2 are the parents of the Petitioner. The matrimonial disputes between the parties gave rise to the filing of aforesaid FIR. After completion of investigation, police filed charge-sheet in the Court and the proceedings are no pending before the

Metropolitan Magistrate.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of criminal proceedings, 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 petition is filed for quashing the above criminal proceedings, by consent of Respondent No.3.

4. Yesterday, the petition was on board. The Petitioner and Respondent No. 3 were present in the Court. Respondent No. 3 had submitted before us that she has no objection for quashing the criminal proceedings and she has also filed affidavit to that effect. We have recorded the statement of Respondent No. 3 in our order dated 17th June 2015 and hence the presence of the Petitioner and Respondent No.3 has been dispensed with.

5. Yesterday Respondent No.3 submitted that the amount in terms of the consent terms was not deposited by the Petitioner in the Family Court. Learned Counsel appearing for the Petitioner assured to deposit the said amount today. We, therefore, adjourned the matter for today. matter was adjourned for today. Today, learned Counsel appearing for the Petitioner placed on record receipt dated 17th June 2015 which discloses that the Petitioner has deposited an amount of Rs. 8 lacs in the Family Court. Copy of the receipt is taken on record. As such the compliance of the consent terms has been made.

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 criminal proceedings. Hence, petition is made absolute in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]