

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 577 OF 2015**

Zakir Sayyed & Ors. .. Applicant

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. R.A. Shaikh i/b Y.A. Shaikh for the applicant

Mr. R.S. Thakur for respondent no.2

Mrs. M.M. Deshmukh, APP for respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED: 30th JUNE, 2015.**

Not on board. Upon mentioning, taken on production board.

P.C.

1. Heard.

2. This application is filed under the provisions of Section 482 of the Cr.P.C. for quashing of the proceedings of Criminal Case No.428/PW/2015, pending on the file of learned Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai. The said case arises out of registration of C.R. No.224 of 2014 registered by the Pydhonie Police Station, Mumbai at the instance of respondent no.2 for the

offence punishable under Section 498-A r/w 34 of the IPC.

3. The applicant no.1 and respondent no.2 are the husband and wife. Rest of the applicants are family members of applicant no.1. Matrimonial dispute between the parties give rise to the filing of the civil as well as criminal proceedings and the subject criminal case is one of them.

4. Pending the trial, parties have settled their dispute amicably and approached this Court for quashing the subject C.R., by consent. The parties have also arrived at Memorandum of Understanding, dated 06.06.2015, copy of which is annexed at Exh.B to the application. Learned Counsel for the respondent no.2 states that in terms of clause (d) of the MOU, respondent no.2 will withdraw Case No.2500008 of 2014, pending before the learned Metropolitan Magistrate, 25th Court at Mazgaon. Statement is accepted. Learned Counsel for the applicants submits that the applicant no.1 has already paid an amount of Rs.70,000/-

to respondent no.2 and today he has paid balance amount of Rs.5,00,000/- to the respondent no.2 by demand draft. Respondent no.2 acknowledged the receipts of the same.

5. The respondent no.2 has filed an affidavit dated 26.06.2015. In paragraph 7, she has given no objection to quash and set aside the proceedings of the subject C.R. The respondent no.2 is personally present in the Court. On specific query made by us, she submitted that she has no objection for quashing the C.R. and consequential criminal proceedings.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of the complaint, it would reveal that the dispute between the parties is purely a matrimonial dispute. In that view of the matter, we find that in the interest of justice, the criminal proceedings are required to be quashed.

7. 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 498-A 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 498-A 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.”

8. Accordingly, the Criminal Application is allowed in terms of prayer clause (a). The C.R. No.224 of 2014 registered by the Pydhonie Police Station, Mumbai against the aforesaid applicants being C.C. No.428/PW/2015 is quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)