

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2580 OF 2015

Viram Laxman Nagaonkar and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Trupti Chavan i/b Pradip Chavan & Associates for the
Petitioner.

Ms. Chaitra Rao for Respondent No. 2.

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

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

Date : **July 8, 2015.**

P. C. :

1. The Petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, seeking to quash CR No. I-28 of 2014 registered with Vishnu Nagar Police Station, Dombivli against them for the offence punishable under sections 498A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860. The said CR is registered at the instance of Respondent No. 2 – Original complainant.

2. Petitioner No.1 and Respondent No.2 are husband and wife and rest of the Petitioners are the family members of Petitioner No.1. Matrimonial disputes between the parties gave rise to the filing subject FIR. The learned Counsel appearing for

the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the said understanding arrived at, present petition is filed for quashing the above FIR, by consent of Respondent No.2.

3. Respondent No.2 has tendered an affidavit dated 8th July 2015. In paragraph 3 of the said affidavit, she has stated that she is not interested in continuing with the prosecution of the said FIR. She has solemnly affirmed that she has no objection for quashing the proceedings of CR No.I-28 of 2014 registered against the Petitioners at her instance.

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 CR in question registered with Vishnu Nagar Police Station, Dombivali, against the Petitioners.

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. In the present matter, it is clear 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.

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

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]