

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2525 OF 2013

Aziz Bharmal

..Petitioner

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. A.M.Saraogi for the Petitioner.

Mr.J.P.Yagnik, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JULY 28, 2015.**

P.C.

1. Heard. The petition is filed for quashing and setting aside the FIR bearing C.R.No. 105 of 2013 registered with Versova Police Station, at the instance of the respondent no.2 for the offence punishable under Section 498A of IPC. The petitioner and the respondent no.2 are husband and wife. Matrimonial dispute between the parties gave rise to filing of civil as well as criminal matters. The subject matter of the present petition is one of them.

2. Though initially, the petition is filed for quashing of the said FIR on merits, during pendency of this petition, parties settled their disputes

amicably and have approached this court for quashing and setting aside the said C.R. by consent.

3. Respondent No.2 is filed an affidavit dated 28.7.2015. In last paragraph of the said affidavit, she has stated that she has given no objection for quashing the subject FIR No.105 of 2013 and she does not want to pursue the matter further.

4. Respondent No.2 is personally present before the Court. On specific query made by us, she stated that she has gone through the contents of the petition and affidavit and further submitted that she has made the said statement in the 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 criminal proceedings in question initiated by her against the Petitioner for the offence punishable under sections 498A of the Indian Penal Code, 1860.

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.PC. 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.”

6. 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. 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.

9. Accordingly, petition is allowed in terms of prayer clause (a).

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)