

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

CRIMINAL WRIT PETITION NO. 2808 OF 2015

Harpal Singh Kohli & ors.

..Petitioners

v/s.

The State of Maharashtra & ors..

..Respondents

Petitioners present in person.

Mr.H.S.Anand for the Respondent No.2.

Mrs.M.H.Mhatre, APP for the Respondent/State.

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

P.C.

1. Heard the learned Counsel appearing for the petitioner and the respondent no.2.
2. The petition is filed under the provisions of 226, 227 of the Constitution of India r/w. Provisions of section 482 of the Code of Criminal Procedure, to quash and set aside the proceeding of C.C.No. 872/PW/2013 pending on the file of learned Metropolitan Magistrate's railway Mobile Court, Andheri, Mumbai. The said case arises out of registration of C.R.NO. 292 of 2012 with Andheri police Station, at the

instance of respondent no.2 for the offence under Section 498A, 406, 323, 377, 354, 506 part II r/w. 34 of Indian Penal Code.

3. Marriage of the petitioner no.1 and respondent no.2 was solemnized on 29.5.2010. The petitioner nos.2, 3, 4 are the family members of petitioner no.1. Matrimonial dispute between the parties gave rise to filing the divorce petition as well as criminal and civil proceedings including the subject criminal case. During pendency of these proceedings the parties settled their dispute amicably and they entered into consent terms. Copy of which is annexed at Exhibit "B", page 105 to the petition. In compliance of the said consent terms the respondent no.2 has withdrawn the Domestic Violence Case bearing No.7/DV/2013 pending before the Railway Mobile Court. Under the consent terms parties agreed to quash the proceeding of the subject criminal case as well as withdraw the application being Application No. 105 of 2012 before the Honourable High Court for cancellation of bail. Parties have also agreed to take divorce by mutual consent under Section 13B of the Hindu Marriage Act. The petitioner no.1 also undertakes that he will appear before the Family Court and co-operate with the respondent no.2 for getting divorce by mutual consent. Undertaking accepted.

4. The Respondent No.2 has filed an affidavit dated 25th July, 2015. In

paragraph 4 of the said affidavit, she has given no objection to quash and set aside the Criminal Complaint bearing No.872/PW/2013 pending before the Railway Mobile Court, Andheri.

5. Respondent No.2 is personally present before the Court. On specific query made by us, she 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, 406, 323, 377, 354, 506 part II r/w. 34 of Indian Penal Code.

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.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.”

7. Similar view has been taken by the Full Bench of this Court in Abasaheb Yadav Honmane vs. State of Maharashtra [2008(5) LJ.Soft. 461].

8. 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.

9. 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.

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

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)