

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

CRIMINAL APPLICATION NO. 712 OF 2015

Smt. Lubna Aslam Patrawala ..Applicant

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. Vinay Dali for the Applicant.
Mr.S.S.Karmarkar for the Respondent No.2.
Mrs.U.V.Kejriwal, APP for the Respondent/State.

**AND
CRIMINAL APPLICATION NO. 713 OF 2015**

Mr.Aslam Usman Ghani Patrawala ..Applicant

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. S.S.Karmarkar for the Applicant.
Mr.Vinay Dali for the Respondent No.2.
Mrs.U.V.Kejriwal, APP for the Respondent/State.

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

P.C.

1. Heard. The applicant in Criminal Application No.712 of 2015 was married to the applicant in Criminal Application NO.713 of 2015.

Matrimonial dispute between the parties led to registration of C.R.No.216 of 2013 at the instance of husband for the offence punishable under Section 325, 504, 506 of Indian Penal Code, whereas C.R. No.164 of 2013 is registered at the instance of wife for the offence under Section 498A, 323, 504 of Indian Penal Code.

2. Pending investigation of the said C.Rs, parties settled their disputes amicably and have approached this Court for quashing the said criminal proceedings by consent.

3. Mr. Aslam Patrawala, Respondent no.2 in Criminal Application No.712 of 2014 has filed affidavit dated 21.7.2015. In para 6 he has given no objection to quash and set aside proceeding of C.R.No.216/2013 registered with Oshiwara Police Station. Similarly Mrs. Lubna Patrawala, Respondent No.2 in Criminal Application No.713 of 2015 has filed affidavit dated 22.7.2015. In para 6 of the said affidavit she has given no objection to quash the proceeding of C.R.No.164 of 2013 registered with Oshiwara Police Station.

4. Both the applicants (first informant) in respective crimes are

present before the court. They state that the dispute is settled, and they don't want to proceed further in the respective C.R. and they have no objection to quash the said C.R. On specific query they state that the statements made in the affidavit are on their own free will, without there being any pressure or undue influence . They confirm that they have no objection for quashing the criminal proceedings against each other.

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. 461].

7. It can, thus, be seen that the dispute 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, both the applications are allowed in terms of prayer clause (c).

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)