

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

CRIMINAL APPLICATION NO.763 OF 2015

Rakesh Shivdas Sharma & Ors.	).. Applicants
Vs.	
The State of Maharashtra & Anr.	).. Respondents

Mr.Gaurav Parkar for the applicants.
Mr.J.P.Yagnik APP for the Respondent-State.
Mr.V.S.Pandey i/by Mr.S.V.Pandey for respondent no.2.

**CORAM : RANJIT MORE &
K.R.SHRIRAM, JJ.**

DATE : 5th August, 2015

P.C.

- 1 Mentioned for production. Production allowed in view of urgency.

- 2 The application is filed under Section 482 of the Code of Criminal Procedure to quash and set aside FIR bearing C.R.No.I-143/2015 registered at Kandivali police station at the instance of respondent no.2 for the offences punishable under Sections 498-A, 406, 323, 506 & 504 r/w 34 of IPC and under Section 3 & 4 of Dowry Prohibition Act, 1961.

- 3 The applicant no.1 and respondent no.2 got married on 11.5.2011. Rest of the applicants are family members of applicant no.1. The

matrimonial dispute gives rise in filing of the subject FIR.

4 Pending investigation of the subject FIR, parties settled their dispute amicably and approached this court for quashing the same.

5 The applicant no.1 and respondent no.2 prepared consent terms. Settlement terms between applicant no.1 and respondent no.2 are recorded in the consent terms. The consent terms are signed by the applicant no.1 and respondent no.2 along with their respective Advocates. Both, the applicant and respondent no.2 are present in court. On specific query, they confirmed contents of the consent terms. The consent terms are taken on record and marked "X" for identification.

6 In terms of the consent terms, respondent no.2 has filed an affidavit dated 5.8.2015. In paragraph-7 she has given no objection for quashing and setting aside the subject FIR. Respondent no.2 is personally present in 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 further submitted that she has gone through the contents of the application and understood the same. She further stated that she has no objection to quash the proceedings of the subject FIR.

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 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].

8 Accordingly, application is allowed in terms of prayer clause-(b).

(K.R. SHRIRAM, J.)

(RANJIT MORE,J)