

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 805 OF 2015

Daljit Bhambra. ..Applicant.
Versus
Amit Bhambra and Others. ..Respondents.

Mr. Manjula B. Biswas for the Applicant.
Mrs. M. H. Mhatre, learned APP for the State.

Coram : RANJIT MORE &
R. G. KETKAR, JJ.
Date : **October 5, 2015.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant and learned APP for the State.
2. The First Informant herself has approached this Court by filing this application under section 482 of the Code of Criminal Procedure, 1973 seeking to quash the FIR lodged by her against Respondent Nos.1 to 4, being CR No.374 of 2014 registered with Kasturba Police Station, Borivali East, Mumbai. The allegations levelled are with regard to the commission of offences punishable under sections 498A, 406, 504 and 506 read with 34 of the Indian Penal Code, 1860.
3. The Applicant and Respondent No.1 got married on 18th January 2014. Respondent Nos.2 to 4 are the family members of Respondent No.1. Matrimonial disputes crept in shortly which gave rise to the filing of civil and criminal proceedings and the subject FIR is

one of them.

4. The learned Counsel appearing for the Applicant 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. Pursuant to the same, present application is filed for quashing the above FIR. The learned Counsel further submitted that parties have agreed for divorce by mutual consent and after divorce the Applicant will be getting re-married.

5. Besides, an affidavit dated 1st October 2015 has been filed by the Applicant reiterating that she does not want to prosecute her FIR against the Respondents and withdrawing all allegations against them. The Applicant is personally present before the Court. She submitted that disputes between herself and the Respondents have been settled and she along with Respondent No.1 have sought divorce by mutual consent under section 13(1)(b) of the Hindu Marriage Act, 1955. She further submitted that all the disputes between herself and the Respondents have been settled and therefore she does not wish to prosecute further the Respondents. She further stated that she herself has filed the instant application and has made 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 subject FIR initiated by her against the Respondents.

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.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].

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 case. The offence alleged cannot be said to have any impact on the society. It can also be seen

that to further put at rest the disputes, it is desirable that subject FIR be quashed as the Applicant has sought divorce by mutual consent and intends to get re-married. 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 subject FIR. Accordingly, application is allowed in terms of prayer clause (a).

[R. G. KETKAR, J.]

[RANJIT MORE, J.]

Certificate

Certified to be true and correct copy of the original signed Judgment / Order.