

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

CRIMINAL APPLICATION NO. 867 OF 2014

Sadik Shamshuddin Shaikh & Ors. .. Applicants

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. A.S. Patil for the applicants

Mr. S.K. Shinde, PP a/w Mrs.M.M. Deshmukh, APP for the respondent State.

Mrs. Joya Sadik Shaikh, respondent no.2 in person

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 21st APRIL, 2015.

PC.

1. Heard. This application is filed under the provisions of Section 482 of the Cr.P.C. for quashing the criminal proceedings of Regular Criminal Case No.188 of 2010, pending on the file of learned J.M.F.C., Kolhapur. The said case arises out of registration of C.R. No.185 of 2009 with Rajarampuri Police Station, Kolhapur at the instance of respondent no.2 for the offence punishable under Sections 498-A, 323, 504, 506 r/w 34 of the IPC.

2. The applicant no.1 and respondent no.2 are the husband and wife. Rest of the applicants are family members of applicant no.1. Matrimonial dispute between the parties gave rise to the filing of the subject FIR, which after investigation, culminated into the C.C. No. 188 of 2010, pending on the file of learned J.M.F.C., Kolhapur.

3. During the pendency of the trial, the applicant and respondent no.2 have settled their matrimonial dispute amicably and in pursuance of the understanding arrived at between them, they have the present application for quashing of said C.R, by consent. Respondent no.2 has filed an affidavit dated 11th July, 2014. In paragraphs 7 and 8, she has stated that now the relations between the parties have become cordial and smooth and if the subject complaint is not quashed, same will cause prejudice to both the parties. Respondent no.2 is personally present in the Court. On specific query made by us, she submitted that she has no objection for quashing the said C.R. and

consequential criminal proceedings.

4. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of the complaint, it would reveal that the dispute between the parties is purely a matrimonial dispute. In that view of the matter, we find that in the interest of justice, the criminal proceedings are required to be quashed.

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 498-A 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.”

6. Accordingly, the Criminal Application is allowed in terms of prayer clause (A). The FIR No.185 of 2009 registered by the Rajarampuri Police Station, Kolhapur against the aforesaid applicants being C.C. No.188 of 2010, pending on the file of learned J.M.F.C., Kolhapur is quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)