

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.836 OF 2015

Shri Shailesh Gumanmal Tated & Ors. ..Applicants.
Versus
State of Maharashtra & Ors. ..Respondents.

Mr. Virendra Ichalkaranjkar , advocate for applicants.
Mr. K.V.Saste, APP for the State.
Mr. Khush I. Khandelwal i/by Khandelwal Associates, advocate for
respondent no.3.

Coram : RANJIT MORE &
R.G.KETKAR, JJ.
Date : **2nd September, 2015.**

P. C. :

Heard learned counsel appearing for the respective
parties.

2 This application is filed invoking the jurisdiction of
this Court conferred under Article 226 of the Constitution of India
read with the provisions of Section 482 of the Code of Criminal
Procedure, 1973 to quash and set aside the proceedings of the
Criminal Case No.995 of 2008 pending on the file of learned
Additional Chief Metropolitan Magistrate, 26th Court, Borivali,

Bombay. The said case arises out of registration of the F.I.R. bearing C.R.No.67 of 2008 with Dahisar Police Station for the offence punishable under Section 498A read with Section 34 of the Indian Penal Code, 1860 and Sections 4 and 5 of the Dowry Prohibition Act,1961. Applicant no.1 and respondent no. 3 are the husband and wife. Rest of the applicants are family members of applicant no.1. Matrimonial disputes between applicant no.1 and respondent no.3 gave rise to filing of civil as well as criminal cases. Subject matter of the present application is one of them.

3 Pending trial, parties have settled their disputes amicably and have approached this Court for quashing the proceedings of the subject criminal case by consent. Applicant No.1 has filed affidavit affirmed on 2.9.2015. In paragraph 8 of it, it is stated that applicant no.1 and respondent no.3 have arrived at Consent Terms and in those Consent Terms, respondent no.3-Wife has given Undertaking that she will withdraw the subject criminal case. Respondent no.3 is present personally in the Court. On specific query, she confirms having entered into Consent Terms with the applicant no.1-Husband and having given aforesaid

undertaking to withdraw the subject criminal case in the Consent Terms.

4 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.”

5 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].

6 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. The offence alleged cannot be said to have any impact on the society. 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.

7 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 criminal proceedings.

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

[R.G.KETKAR, J.]

[RANJIT MORE, J.]