

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3924 OF 2015

Sameer Dilip Rane and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Ms. Poonam Ankleshwaria for the Petitioners.

Mr. Shreeram Shirsat i/b K. M. Choudhari for Respondent No.2.

Coram : RANJIT MORE &
R. G. KETKAR, JJ.

Date : **October 8, 2015.**

P. C. :

1. This is petition under Article 226 of the Constitution of India and under the provisions of section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of criminal proceedings, bearing No.CC.119/PW/2012 pending on the file of Additional Chief Metropolitan Magistrate's Court, 27th Court at Mulund, Mumbai. The said case is the result of FIR / CR No.115 of 2011 registered with Navghar Police Station, Mulund, Mumbai at the instance of Respondent No.2 wherein the allegations of commission of the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860 are made against the Petitioners.

2. Petitioner No.1 and Respondent No. 2 were husband and wife. Rest of the Petitioners are the family members of Petitioner

No.1. Matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one another and the subject matter of present petition is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement. The parties have agreed to obtain divorce by mutual consent under section 13-B of the Hindu Marriage Act, 1955 and have filed consent terms before the Family Court at Bandra in Petition No. A-1214 of 2011. Pursuant to the understanding thus arrived at, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No.2.

4. Respondent No.2 has made an affidavit dated 29th September 2015. In the said affidavit, she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners as the settlement has been arrived at and consent terms have already been filed in the Family Court for grant of decree of divorce by mutual consent. She has solemnly affirmed that she is withdrawing all the allegations made against the Petitioners in the said FIR/criminal proceedings and that she has no objection for quashing

the proceedings of the criminal case against the Petitioners initiated at her instance.

5. Respondent No.2 is personally present before the 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 has further confirmed that she has no objection for quashing the criminal proceedings in question initiated by her against the Petitioners for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

6. The Apex Court in B. S. Joshi vs. State of Haryana [AIR 2003 SC 1386] has held that in the event of settlement of matrimonial dispute, the FIR or criminal proceedings concerning offence punishable under Section 498A can be quashed, even though the said offence is not compoundable in terms of Section 320 of the Code of Criminal Procedure, 1973. 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 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.

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. Consequently, petition is made absolute in terms of prayer clause subject criminal proceedings, namely, CC No. 119/PW/2012 pending on the file of Additional Chief Metropolitan Magistrate's 27th Court, Mulund, Mumbai is hereby quashed.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]

Certificate

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