

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4076 OF 2015

Siddhesh Shivajirao Chaugule and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. K. H. Rajani for the Petitioners.

Mr. K. V. Saste, learned APP for the State.

Mr. Sumeth Kale for Respondent No.2.

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

Date : **October 13, 2015.**

P. C. :

1. This is a petition under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, whereby the Petitioners have sought to quash and set aside FIR registered against them with Kopri Police Station Thane, being FIR No. I-68 of 2014. The said FIR is registered at the instance of Respondent No.2, indicting the Petitioners for commission of the offence punishable under sections 498A, 406, 417, 420 and 504 read with 34 of IPC.

2. Petitioner No.1 and Respondent No.2 were the husband and wife. Rest of the Petitioners are family members of Petitioner No.1. Couple could not make it to happy married life due to matrimonial disputes and misunderstandings, which ultimately led to filing of civil and criminal litigations by the

parties and the subject matter of the present petition is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation of above FIR, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement. They submitted that parties have already obtained divorce by mutual consent. Pursuant to the understanding arrived at between them, in order to put an end to all acrimonies, present petition is filed for quashing the above FIR with the consent of Respondent No.2.

4. Affidavit dated 3rd October 2015 has been filed by Respondent No.2 wherein she has stated that she does not want to continue with the prosecution of the Petitioners in the subject FIR and has further recorded her no objection for quashing the FIR registered at her instance. Learned Counsel appearing for the Petitioner submitted that in terms of the consent terms an amount of Rs. 3 lacs has been paid to Respondent No. 2 and balance amount of Rs.10 lacs has been deposited by the Petitioner no.1 in the Family Court. This statement is not disputed by the learned Counsel appearing for Respondent No.2.

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 FIR in question lodged by her against the Petitioner for the offence punishable under sections 504 and 506(II) of the Indian Penal Code, 1860.

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 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 subject FIR. Consequently, petition is made absolute in terms of prayer clause (b).

[R. G. KETKAR, J.]

[RANJIT MORE, J.]