

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1015 OF 2013

Mohd. Azhar s/o. Mohd. Mazhar	..Applicant.
<u>Versus</u>	
The Sr. Inspector of Police & Ors.	..Respondents.

Mr. B.S.Kothari, advocate for applicant.
Mr. Abdul R. Shaikh, advocate for respondent no.2.
Mr. R.V.Saste, APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.
Date : **24th AUGUST, 2015.**

P. C. :

This application is filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal proceedings being C.C.No.1360 of 2011 pending before the Judicial Magistrate First Class, 1st Court, Thane for the offences punishable under Sections 498(A), 406, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Petitioner and the respondent no.2 were married on 13.5.2010. Matrimonial disputes between them gave rise to filing proceedings including subject matter of the present case against

the petitioner, his mother and two sisters. Pending trial, parties have settled their disputes amicably and have approached this Court for quashing the subject criminal proceedings by consent.

3 Respondent no.2 has filed an affidavit dated 2.3.2015. In paragraph 7, she has given 'no objection' to quash the subject criminal proceedings against all the accused namely, petitioner, his mother and two sisters. Respondent no.2 is present in the Court. On specific query, she states that she has understood the contents of the said affidavit and has no objection to quash the subject criminal proceedings against all the accused.

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 criminal proceeding.

8 Accordingly, Criminal Application is allowed in terms of prayer clause (a).

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]