

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4205 OF 2014

Sanjiv Suryakant Golani and Others. ..Petitioners.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Ninad Mazumdar for the Petitioner.
Mr. Manish Pabale for Respondent No. 2.
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **February 24, 2015.**

P. C. :

1. Heard. The instant petition is filed by the Petitioners under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 seeking to quash the proceedings of CC.No.769/PW/2015 pending on the file of Metropolitan Magistrate 10th Court, Andheri, Mumbai, which has arisen from CR/FIR No. 224 of 2013 registered with D.N.Nagar Police Station, Andheri against the Petitioners at the instance of Respondent No.2 for the offence punishable under section 498A, 323, 506, 406 and 504 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No.1 and Respondent No.2 got married on 24th December 2011. Unfortunately, parties could not make it to a happy married life. Matrimonial disputes led to filing of civil and criminal proceedings by the parties against each other, including the aforesaid criminal case. Petitioner No. 1

also filed petition in the Family Court for dissolution of marriage. The parties settled their disputes amicably and filed consent terms in the family Court and obtained decree by mutual consent under section 13-B of the Hindu Marriage Act, 1956.

3. The learned Counsel appearing for the respective parties submitted that in view of the settlement arrived at between the parties, the Petitioners have filed present petition for quashing the aforesaid criminal proceedings, by consent of Respondent No.2. They accordingly prayed for quashing of aforesaid criminal proceedings.

4. Respondent No.2 has filed an affidavit dated 8th December 2014. In paragraph 3 and 4 of the said affidavit, she has stated that she has no objection for quashing the proceedings of the criminal case.

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.

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 case. 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.

9. Accordingly, writ petition is made absolute in terms of prayer clause (b).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]