

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4300 OF 2014

Dhawalshree Saraiya and Others. ..Petitioners.

Versus

Meghna Saraiya and Another. ..Respondents.

Mr. Swapnil Ambauri i/b M/s. Dinesh D. Tiwari & Associates for
the Petitioners.

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

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **January 23, 2015.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned APP for the State. Present writ petition is filed for quashing the proceedings of Criminal Appeal No.62 of 2010 pending on the file of learned District & Sessions Judge, Thane. Petitioner No.1 is the husband of Respondent No.1 and rest of the Petitioners are the family members of Petitioner No.1. At the instance of Respondent No.1, Mira Road Police Station registered CR No. 258 of 2008 against the Petitioners and after investigation filed charge-sheet in the Court of JMFC, Thane, where proceedings were numbered as RCC No.1293 of 2008. The Petitioners were prosecuted for the offences punishable under sections 498A, 406, 354, 323, 506 read with 34 of the Indian Penal Code, 1860. The prosecution failed. The Petitioners were acquitted by the Magistrate. Thereafter, State has filed above referred appeal before the Sessions Judge, Thane.

2. The present petition is filed for quashing the proceedings of said appeal, by consent. Respondent No.1 has filed affidavit giving consent for quashing the proceedings of said appeal. On the last date, i.e., on 19th January 2015, Respondent No.1-the complainant was personally present before this Court. On specific query she submitted that she has no objection for quashing the proceedings of said appeal. We adjourned the writ petition for today at the instance of learned APP for the State to take instructions since appeal before the Sessions Judge was preferred by the State. The presence of Respondent No.1 was dispensed with for today's hearing by the order dated 19th January 2015. Mr. Saste, learned APP for the State having taken instructions submitted that dispute between the parties is private in nature and therefore appropriate orders may be passed. [In paragraph 4 of the order dated 19th January 2015, in second line words "*Respondent No.2 has filed affidavit*" are substituted by the words "*Respondent No.1 has filed affidavit*".]

3. 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].

4. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint and statement made by learned APP for the State, 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.

5. 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.

6. In the circumstances, proceedings of Criminal Appeal No.62 of 2010 pending on the file of learned District & Sessions Judge, Thane are hereby quashed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]