

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1155 OF 2014

Shilpa Rao @ Shilpa Suvarna

.. Applicant

v/s.

The State of Maharashtra & Ors.

..Respondents

Mr. H.S. Kazi a/w Gayatri Ingale i/b H.K. Sayyed for the applicant
Ms. Madhuri Sharma for respondent no.2.

Mr. J.P. Yagnik, APP for the respondent State

CORAM : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 28th JANUARY, 2015.

P.C.

1. This application is filed under the provisions of Section 482 of the Cr.P.C. for quashing the proceedings of Criminal Case No.159/PW/2013, pending on the file of learned Additional Metropolitan Magistrate, 9th Court, Bandra, Mumbai.

2. The applicant is the wife of and respondent no.2. Respondent nos.3 and 4 are the family members of the respondent no.2. Matrimonial dispute between the parties led to the filing of the civil

as well as criminal proceedings against each other. The applicant had filed divorce Petition No.A-1428 of 2013 before the Family Court at Bandra. The applicant also filed the FIR No.345 of 2012 with Mahim Police Station, Mumbai against the respondent nos. 2 to 4 for the offence punishable under Section 498-A, 406, 420 r/w 34 of the IPC. After the investigation into the allegations, charge-sheet was filed before the learned Additional Metropolitan Magistrate, 9th Court, Bandra, Mumbai, which is numbered as C.C. No.159/PW/2013.

3. The applicant and respondent no.2 have settled the matrimonial dispute amicably and have filed consent terms for divorce by mutual consent. The consent terms are annexed at Exhibit-B to the application. In clause 5 of the said consent terms, the applicant / petitioner agreed for quashing of the criminal case filed by her under Section 498A and other sections of the Cr.P.C. On specific query made by us, she submitted that she has no objection for quashing the FIR and consequential criminal proceedings.

4. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of the complaint, it would reveal that the dispute between the parties is purely a matrimonial dispute. In that view of the matter, we find that in the interest of justice, the criminal proceedings are required to be quashed.

5. 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. Accordingly, the Criminal Application is allowed in terms of prayer clause (a). The FIR No.345 of 2012 registered by the Mahim Police Station, Mumbai against the aforesaid applicant being C.C. No.159/PW/2013 is quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)