

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1229 OF 2014

Pravin Ganpat Khandare and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. G. T. Kanchanpurkar for the Applicants.

Mrs. S. V. Sonawane, learned APP for the State.

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

Date : **February 24, 2015.**

P. C. :

1. Heard learned Counsel appearing for the Applicants and learned APP for the State. None appears for Respondent No.2 despite service.

2. This application is filed under the provisions of section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of C.C.No.193/PW/2013 pending on the file of Metropolitan Magistrate, 53rd Court, Mulund, Mumbai. The said case has arisen from FIR No.394 of 2012 registered at the instance of Respondent No.2 against the Applicants with Bhandup Police Station for the offence punishable under sections 498A, 406, 506, 232 read with 34 of the Indian Penal Code, 1860 and sections 66A, 66C, 67 and 43 of the Information Technology Act, 2000.

3. Applicant No.1 and Respondent No.2 got married on 24th May 2011. Matrimonial disputes gave rise to the filing

of civil as well as criminal proceedings by the parties against each other. Applicant No.1 filed petition against Respondent No.2 in the Family Court at Bandra for restitution of conjugal rights. Respondent No.2 initiated above mentioned CR / criminal proceedings against the Applicants.

4. Learned Counsel appearing for the the Applicants submitted that parties in the meanwhile settled their disputes and agreed for divorce by mutual consent under section 13-B of the Hindu Marriage Act, 1956. Accordingly consent terms came to be filed in the family Court proceedings and family Court passed decree of divorce in terms of consent terms. Copy of the said consent terms is on the record of this application. Perusal of the decree shows that Respondent No. 2 has agreed and undertaken not to proceed with and co-operate with the Applicants in quashing of 498A complaint if required lodged by her with Bhandup Police Station, which is the subject matter of present application. Respondent No. 2 has also confirmed in the said consent terms that she is giving no objection for quashing the criminal case out of her free will and there is no force or pressure on her.

5. Despite notice, Respondent No.2 has not appeared before this Court. Learned Counsel appearing for the Applicants submitted that Respondent No.2, after obtaining divorce, is now not co-operating for quashing the proceedings of criminal case. Since Respondent No.2 has undertaken to the Family Court to co-operate with the Applicants for

quashing of criminal case initiated by her, we are inclined to quash the same.

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, application is allowed in terms of prayer clause (a).

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]