

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION No. 1246 OF 2014**

Mohsin Azam Aslam Shaikh & Others. ..Applicants.

Versus

Mrs. Shama Azam Shaikh and Another. ..Respondents.

Mr. Aslam Khan for the Applicants.

Ms. Sarah Kapadia for Respondent No. 1.

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

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

Date : **February 6, 2015.**

P. C. :

1. Heard. This application is filed under section 482 of the Code of Criminal Procedure, 1973 for quashing the proceedings of CC.No.1713/PW/11 pending on the file of the Metropolitan Magistrate, 65<sup>th</sup> Court, Andheri arising from FIR No. 291 of 2010 registered with Oshiwara Police Station. The said FIR is registered at the instance of Respondent No. 1 against the Petitioners for the offence punishable under sections 498A, 506, 406 and 323 read with 34 of the Indian Penal Code, 1860.

2. Applicant No.1 and Respondent No.1 got married in the year 2009. The incompatibility in the thought process of couple gave rise to the matrimonial disputes which resulted into filing of civil as well as criminal proceedings and the subject matter of the present application is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation and after the filing of charge-sheet, the parties have settled their disputes amicably. In pursuance of the understanding arrived at between the parties, they have filed present application for quashing the said criminal proceeding, by consent.

4. Before this Court, Respondent No.1 has filed an affidavit dated 15<sup>th</sup> December 2014, wherein she has solemnly affirmed that in view of the amicable settlement between herself and Applicant No.1, she is giving consent for quashing CC No. 1713/PW/2011 pending on the file of the Metropolitan Magistrate, 65<sup>th</sup> Court, Andheri.

5. Respondent No.1 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 Applicants for the offence punishable under sections 498A, 506, 406 and 323 read with 34 of the Indian Penal Code, 1860.

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 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.

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. In the circumstances, application is made absolute in terms of prayer clause (a).

**[SMT. ANUJA PRABHUDESSAI, J.]**

**[RANJIT MORE, J.]**