

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1279 OF 2015

Mukesh Ramesh Kalal and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. P. H. Salvi for the Applicants.

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

Mr. S. R. Goud for Respondent No. 2.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **December 10, 2015.**

P. C. :

1. Advocate Mr. S. R. Goud appears and states that he has been instructed to appear on behalf of Respondent No.2 and undertakes to file vakalatnama within two days. Statement accepted.

2. Heard the learned Counsel appearing for the respective parties. By this application, filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash FIR bearing CR No.145 of 2014 registered with Agripada Police Station against them at the instance of Respondent No.2. The allegations against the Applicants in the said FIR are concerning the offence punishable under sections 498A, 406 and 506 read with 34 of the Indian Penal Code, 1860.

3. Applicant No.1 and Respondent No.2 are husband wife. Rest of the Applicants are the family members of Applicant No.1. Matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one another and the subject matter of present application is one of them.

4. Learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above FIR, by consent of Respondent No.2. An affidavit dated 10th December 2015 has been filed by Respondent No.2 before this Court, wherein she has stated that she has no objection for quashing the FIR in question registered against the Applicants at her instance, being CR No. 145 of 2014 of Agripada Police Station.

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 FIR in question initiated by her against the Applicants for the offence punishable under sections 498A, 406 & 506 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 offence.. 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 subject FIR alive 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 subject FIR. Accordingly, application is allowed in terms of prayer clause (a).

9. At this stage, the learned Counsel appearing for the Respondent No.2 submitted that during the investigation, the Investigating Officer has recovered certain Stridhan of 2nd Respondent from the possession of Applicants, that may be directed to be returned to Respondent No.2. The learned Counsel appearing for the Applicants, after taking instructions from the Applicants, submitted that the Applicants have no objection for return of the property to Respondent No. 2 which are lying with the police. Since the subject FIR is quashed, 2nd Respondent is at liberty to apply before the concerned Police Station for return of her Stridhan recovered by the police during the course of investigation. The Investigating Officer shall dispose of such application as expeditiously as possible and at any rate within the period of one week of its filing and in accordance with law.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]