

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 62 OF 2016

Kunal Atmaram Raut and Others. ..Applicants.
Versus
 State of Maharashtra & Others. ..Respondents.

Mr. V. R. Randive for the Applicants.
Mrs. U. V. Kejriwal, learned APP for the State.
Mr. S. V. Marwadi for Respondent No. 2.

Coram : RANJIT MORE &
S. C. GUPTA, JJ.
Date : **February 3, 2016.**

P. C.:

1. 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 the proceedings of criminal case pending against them on the file of learned Metropolitan Magistrate, 5th Court, Dadar, Mumbai, being CC. No.608/PW/2013. The said proceeding is the offshoot of an FIR No.271 of 2012 registered with Dadar Police Station on 4th October 2012. The said FIR is registered at the instance of Respondent No.2, wherein the allegations against the Applicants are with regard to commission of offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

2. Applicant No.1 and Respondent No.2 got married in the

year 2011. Applicant Nos.2 and 3 are the parents 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.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of trial of above criminal proceeding, 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 criminal proceedings, with the consent of original complainant - Respondent No.2 herein.

4. Respondent No.2 has filed an affidavit dated 3rd February 2016 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Applicants in view of the amicable settlement of disputes with them. She has solemnly affirmed that she has no objection for quashing the proceedings of subject criminal case.

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 and 406 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 proceedings for the offence punishable 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 subject criminal proceedings. Accordingly, application is allowed in terms of prayer clause (a).

9. At this stage, the learned Counsel appearing for the Applicants submitted that during the course of investigation, police have recovered passport of Applicant No.1 and an undated cheque of

Rs.4 lacs. The learned Counsel appearing for the Respondent No.2 submitted that police have recovered Stridhan belonging to Respondent No.2. Both side counsel submitted that they have no objection if the aforestated articles are returned to the respective parties. Let such applications be made to the concerned Police Station. If such applications are made, the police shall deliver the said articles to the concerned parties within 15 days of filing of such applications.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]