

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

CRI. WRIT PETITION NO. 640 OF 2016

Gaurav Vitthal Bhat & Anr. ... Petitioners.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. Mihir D. Gheewala a/w. Santosh Pawar, Advocate for the Petitioners.

Mrs. M. H. Mhatre, APP for the State.

Mr. Prashant Chauhan & Mr. M. R. Raut, Advocate for Respondent No.2.

**CORAM : V. M. KANADE AND
Ms. NUTAN D. SARDESAI, JJ.**

DATE : 16th NOVEMBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of the Petitioners and the learned counsel appearing on behalf of the Respondent No.2.

2 This petition is filed by the Petitioner-husband for quashing the criminal complaint filed against him by Respondent No.2 wife for the offences punishable under sections 498A, 406, 414, 403, 313 r/w. 34 of the IPC. During the pendency of the criminal proceedings, both husband and wife filed separate petitions for divorce which are pending in the Family Court at Bandra, Mumbai. During the pendency of

these proceedings, they filed an application for converting both the petitions for divorce by mutual consent. Both the parties have also filed a consent terms in the said divorce proceedings. The wife has given consent for quashing the criminal complaint filed against the husband.

3 We have interviewed the respondent-wife. She has stated that no coercion has been exercised on her for giving her consent for quashing of the criminal complaint against the husband. Parties have already filed a consent terms in the Family Court in which one of the condition for conversion of the divorce petition is that the wife withdraws the complaint under section 498 and other provisions of the IPC.

4 After having interviewed the respondent-wife, we are satisfied that the quashing of the criminal complaint is in the best interest of the wife. Both the parties are young. Respondent wife submits that she would like to start a new chapter on the clean slate. Therefore, she is not interested in further pursuing the criminal complaint filed by her against the husband. The Apex Court in the case of **B. S. Joshi & Ors. vs. State of Haryana & Anr.**, reported in (2003) 4 Supreme Court Cases 675, has held that in a matrimonial dispute when ever a complaint under section 498A is filed against husband and both the parties agree to settle the dispute by dissolving the marriage mutually and apply for quashing the complaint by

consent, the High Court shall exercise its jurisdiction under section 482 of the Cr. P.C. for quashing such a complaint.

5 The Apex Court in the said case, cited supra, has observed that the limitation imposed on a Magistrate under section 320 of the Cr. P.C. cannot be read into the inherent powers of the High Court under section 482 of the Cr. P.C.. The inherent powers of the High Court under section 482 are not restricted or limited by the restrictions imposed by the legislature on a Magistrate, while he exercises his jurisdiction under section 320 of the Cr.P.C.. A complaint, therefore, even if not compoundable under section 320, can be quashed by the High Court under section 482 of the Cr. P. C.. We have, therefore, no hesitation in quashing the complaint by consent of both the parties.

6 Hence, the criminal complaint vide MECR No. 8 of 2014 registered with the Vile Parle Police Station, Mumbai is quashed and set aside. Consequently, the chargesheet which is filed out of the said complaint also stands quashed. The case pending before the Sessions Court vide Sessions Case No. 658/PW/2015 also stands quashed.

7 The Petition is, therefore, allowed and disposed of in the aforesaid terms.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J.)