

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.168 OF 2016

Mathew Vijaykumar Karvinkoppa & others	Applicants
versus	
The State of Maharashtra	Respondent

Mr.Satyavrat P. Joshi for Applicants.
Dr.F.R.Shaikh, APP, for Respondent.

WITH
CRIMINAL APPLICATION NO.173 OF 2016

Rebecca Mathew Karvinkoppa and another	Applicants
versus	
Mathew V. Karvinkoppa and another	Respondents

Mr.Harshwardhan V. Akolkar for Applicants.
Dr.F.R.Shaikh, APP, for Respondent no.2.

CORAM : A.S.OKA AND P.D.NAIK, JJ.

DATE : 05th April 2016

PC :

1. Rule. Learned APP waives service for the State. Forthwith taken up for final hearing.
2. These two applications are preferred by the Applicants by invoking inherent power of this court under Section 482 of the Code of Criminal Procedure, 1908 ('Code'). Since the issues

involved in both the applications are interconnected, both applications are decided by a common order.

3. Criminal Application No.168 of 2016 is preferred by the Applicants who are impleaded as accused in CR No.280 of 2015 registered with Hadapsar Police Station, Pune, at the instance of second Respondent. The FIR was registered alleging offences under Sections 498A, 406, 323, 506, 504 read with Section 34 of Indian Penal Code.

4. In the FIR which is subject matter of Criminal Application No.168 of 2016, it has been alleged that the Applicants have caused harassment to the second Respondent after her marriage was solemnized with Applicant no.1. It is alleged that from time to time, the second Respondent was ill-treated by the Applicants therein, which has resulted in mental cruelty to her.

5. In the FIR which is subject matter of Criminal Application No.173 of 2016, the Applicants therein are impleaded as accused in connection with the complaint filed by the first Respondent in the said application. On the basis of the private complaint filed by the first Respondent therein, the offence was directed to be registered by the concerned Court in exercise of power under Section 156(3) of the Code. Pursuant to the said directions, an FIR was registered for offences punishable under Sections 415, 417, 420, 406, 504, 506, 497, 499 read with

Section 34 of Indian Penal Code. In the said complaint, it is alleged that the accused had committed the acts which are violative of the aforesaid penal provisions. Several allegations were made against the accused therein more particularly against the first Applicant therein alleging that she was having illicit relationship etc. It is pertinent to note that the first Applicant in Criminal Application No.173 of 2016 is the wife of the first Respondent in the said application. It may also be noted that the first Applicant in Criminal Application No.173 of 2016 is the complainant in the FIR which is subject matter of Criminal Application No.168 of 2016.

6. It has been submitted by the advocates representing the parties in both the Applications that the dispute amongst both the parties have been amicably settled. The complainant in the FIR which is the subject matter of Criminal Application No.168 of 2016 has submitted an affidavit dated 5th April 2016 before this Court. In the said affidavit, it has been mentioned that she is the complainant in CR No.280 of 2015. It is further stated that the disputes between the said complainant and the accused has been amicably settled and, therefore, she has been voluntarily filing the said affidavit before this Court. It is also stated that there will be no useful purpose by keeping the proceedings pending, as the parties have settled their disputes amicably against each other. It is further stated that she has no objection to quash the FIR bearing CR No.280 of 2015.

7. The complainant in Criminal Application No.173 of 2016 has also submitted an affidavit dated 5th April 2016 before this Court. In the said affidavit it has been mentioned that the said complainant has lodged a private complaint in which directions were issued and pursuant to the said directions, the FIR was registered vide CR No.298 of 2015 for various offenses mentioned therein. It is further stated that the dispute between the said complainant and the accused in the said FIR has been settled and that he does not wish to pursue the prosecution in connection with the said FIR. It is also stated that the impugned FIR which is the subject matter of Criminal Application No.173 of 2016 may be quashed and set aside on account of settlement of the dispute amongst both the parties.

8. We have perused the contents of both the criminal applications as well as affidavits dated 5th April 2016 filed before this Court. We are satisfied that the dispute amongst both the parties in the cross complaints have been amicably settled. We have considered the fact that the nature of the dispute is matrimonial. It can also be seen that this is purely a private dispute and public at large had no nexus with the same. On perusal of the aforesaid documents, we are satisfied that this is a fit case where power under Section 482 of the Code can be exercised for quashing the said proceedings.

9. In several decisions of the Apex Court it has been laid down that inherent power of the High Court under Section 482 of the Code can be exercised in the cases where parties settle their private/matrimonial disputes amongst each other. The Apex Court in case of **Gian Singh Vs. State of Punjab and another**¹ has observed that criminal proceedings arising out of private disputes between the parties can be quashed on the ground that parties have arrived at amicable settlement. The Apex Court has observed that in relation to the dispute which is personal in nature and public at large has no concern with the result of such litigation and where parties have resolved their dispute amicably, the power under Section 482 of the Code can be exercised by High Court.

10. In view of the above, we are inclined to allow both these applications; and we pass following order :

(a) Rule issued in Criminal Application No.168 of 2016 is made absolute in terms of prayer clause (a), which reads thus :

"(a) That the Hon'ble Court may be pleased to exercise its powers u/s 482 of the Code of Criminal Procedure, 1973 and may be pleased to quash and set aside the C.R.No.280 of 2015 which is registered with the Hadapsar Police Station, Pune";

¹ (2012)10-SCC-303

(b) Rule issued in Criminal Application No.173 of 2016 is made absolute in terms of prayer clause (a), which reads thus :

"(a) After perusal of the application, the Court be pleased to quash the FIR bearing No.218 of 2015 of Hadapsar Police Station against the Applicants under Sections 415, 417, 420, 406, 504, 506, 497, 499 and 34 of Indian Penal Code arising from the proceedings against the Applicants vide R.CC No.145 of 2015 pending before learned Judicial Magistrate, First Class, Cantonment Court, Pune."

(c) All concerned to act on an ordinary copy of this order duly authenticated by registry of this Court.

(PD.NAIK, J.)

(A.S.OKA, J.)

MST