

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 930 OF 2016

Ansar Ahmed Khan and Others. ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Nitesh Acharya for the Petitioners.
Mrs. U. V. Kejrival, learned APP for the State.
Ms. Hima Ansari for Respondent No. 2.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.
Date : **March 4, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties and learned APP for the State. By this writ petition filed under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973, the Petitioners have sought to quash the FIR registered against them with Chunabhati Police Station, being CR. No. 61 of 2015. The said FIR is registered at the instance of Respondent No.2 herein and the allegations levelled against the Petitioners are with regard to the commission of the offences punishable under sections 498A, 377, 406 and 506 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No. 1 and Respondent No. 2 are the

husband and wife. Rest of the Petitioners are the family members of Petitioner No. 1. The matrimonial discord between the parties gave rise to the filing of the subject FIR.

3. The 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 petition is filed for quashing the above FIR, by consent of original complainant - Respondent No. 2 herein. They submitted that couple has buried their hatchet and residing together happily since last seven months.

4. Respondent No.2 has filed an affidavit dated 29th February 2016 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in the subject FIR. She has solemnly affirmed that she she has no grievance against the Petitioners and she does not wish to proceed with the present case. She has further stated that she has no

objection for quashing the FIR in question. She has also placed on record consent terms arrived at between the parties, which are tendered before the Metropolitan Magistrate's Court at Sewri.

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 instituted at her instance against the Petitioners. She further reiterated that she has been happily cohabiting with Petitioner No.1 since last seven months and she has no grievance against the Petitioners.

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 disputes, 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. 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. The offence alleged cannot be said to have any impact on the society. It would be in the interests of Respondent No. 2 that in view of the settlement of matrimonial disputes, an acrimonious litigation is put to an end.

8. 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 FIR alive except ultimately burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the Petitioners in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the FIR in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the

instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

9. 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 FIR in question. Accordingly, petition is made absolute in terms of prayer clause (a).

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]