

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3443 OF 2015

Rajat Singharia and Another.

..Petitioners.

Versus

Prapti Rajat and Another.

..Respondents.

Mr. J. A. Udaipuri i/b M/s. Udaipuri & Co., for the Petitioners.

Mr. Aditya Shashittal for Respondent No. 1.

Mrs. M. M. Deshmukh, learned APP for the State.

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.

2. The Petitioners have invoked the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking to quash two FIRs lodged against them by Respondent No.1 herein. FIR bearing CR No.149 of 2011 is registered with Vashi Police Station wherein the allegations levelled against the Petitioners are with regard to the commission of the offences punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860. FIR bearing CR No. 322 of 2011 is registered with Samta Nagar Police Station wherein the allegations levelled against the Petitioners are with regard to the commission of the offence punishable under sections 465, 468,

471, 420 and 511 of the Indian Penal Code, 1860.

3. Petitioner No.1 and Respondent No.1 are the husband and wife whereas Petitioner No.2 is the father of Petitioner No.1. It seems that 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 writ petition, ie., abovementioned two FIRs are also the outcome of matrimonial discord.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIRs, 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 FIRs by consent of original complainant - Respondent No. 1 herein.

5. Respondent No.1 has filed an affidavit dated 4th March 2016 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in the subject FIRs registered at her instance. She has solemnly affirmed that she has no objection for quashing the FIRs in question.

6. 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 both the subject FIRs.

7. The Apex Court in B. S. Joshi vs. State of Haryana [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. 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].

8. 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. The parties have not only buried the hatchet but have also decided to live peacefully in future.

9. 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 FIRs alive except ultimately burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforesaid 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 FIRs 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 the FIRs 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.

10. 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 FIRs in question. Accordingly, petition is made absolute in terms of prayer clause (b).

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]