

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1123 OF 2015

Bhakti Desai and Others.

..Applicants.

Versus

State of Maharashtra & Others.

..Respondents.

Ms. Shaista Pathan i/b Yusuf & Associates for the Applicants.

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

Coram : RANJIT MORE &
S. C. GUPTA, JJ.

Date : **January 21, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant.
This joint application is filed by the Complainant and accused, invoking the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of CC. No.2821/PW/2012 pending on the file of learned Metropolitan Magistrate, 17th Court at Borivali, Mumbai. The said case is the result of FIR registered against Applicant Nos. 2 to 4 with Samta Nagar Police Station, being CR. No.27/2012. The FIR is registered at the instance of Applicant No.1, wherein the allegations pertain to the commission of offence punishable under sections 498A and 420 read with 34 of the Indian Penal Code, 1860.
2. Applicant No.1 and Applicant No.2 are husband wife.
Rest of the Applicants are the family members of Applicant No.2.

Matrimonial discord 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 case, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement. The parties have accordingly filed consent terms before the Family Court at Bandra, Mumbai [H.P.F. No. 1587 of 2015]. Copy of the consent terms is placed on the record of this file at Exhibit-B. It can be seen that under the consent terms parties have agreed to obtain divorce by mutual consent as per the provisions of section 13B of the Hindu Marriage Act, 1955. Applicant No.2 has agreed to pay an amount of Rs.10 lacs to Applicant No.1 towards the full and final settlement of all her claims for alimony and maintenance, past, present and future. Applicant No.2 has already deposited the said amount of Rs.10 lacs in the Family Court at Bandra. A receipt to that effect is placed on record. Counsel submitted that pursuant to the understanding arrived at between the parties, the instant application is filed for quashing the above criminal proceedings, by consent of Applicant No.1.

4. Applicant No.1 is personally present before the Court. On specific query made by us, she submitted that she confirmed the contents of the application and that she has filed the present application 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 Applicant Nos. 2 to 4 for the offence punishable under sections 498A and 420 read with 34 of the Indian Penal Code, 1860.

5. 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 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].

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of FIR, 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.

. 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.

7. Accordingly, application is allowed in terms of prayer clause (B).

8. Applicant No.1 is at liberty to apply to the Family Court for withdrawal of the amount of Rs. 10 lacs deposited by Applicant No.

2. Applicant No. 2 and 3 submitted that they have no objection for Applicant No. 1 withdrawing the said amount.

[S. C. GUPTE, J.]

[RANJIT MORE, J.]