

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

WRIT PETITION NO. 4350 OF 2015

Sabina Devang Desai @ Sabina Somani	...Petitioner
<i>Versus</i>	
The State of Maharashtra & Ors.	...Respondents

Mr. Ashley Custer, i/b Mr. Asif Naqvi, for the Petitioner.

Mr. J.P. Yagnik, for the State.

Mr. Vinayak V. Katti, for Respondents No. 2 to 4.

**CORAM : RANJIT MORE &
S.C. GUPTE, JJ.**

DATE : 4th February 2016

P.C. :

1. Heard learned Counsel appearing for the respective parties and learned APP for the State.

2. The Complainant herself has approached this Court invoking the powers of this Court under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 seeking to quash the FIR bearing C.R. No. 151/2013

registered with Byculla Police Station, Mumbai. The said FIR is registered against Respondents Nos.2 to 4, wherein the allegations made against them are concerning the offences punishable under Section 498(A), 406, 420, 465, 468 and 471 read with Section 34 of Indian Penal Code, 1860.

3. The Petitioner and Respondent No.2 got married on 20th July 2011. Respondent Nos.3 and 4 are parents of Respondent No.2. Marital discord between the parties gave rise to the filing of several criminal as well as civil matters and the subject matter of the present Petition is one of them.

4. Learned Counsel appearing for the respective parties submitted that pending investigation, the parties have settled their disputes amicably and accordingly, they have obtained divorce by mutual consent on 15th September 2015 and in pursuance of understanding arrived at between them, the Complainant has approached this Court for quashing the subject criminal proceeding.

5. The Petitioner has filed an Affidavit dated 4th February 2016. In paragraph 11, she has given no objection for quashing the subject Criminal Case. The Petitioner is personally present in Court. She states that she has gone through the Affidavit and has

understood the contents thereof. She confirms the contents mentioned in the Affidavit. On specific query, she stated that she has no objection to quash the proceedings of the Criminal Case. She further stated that she has made the said Affidavit out of her free will and without there being any pressure or coercion.

6. Respondent No. 2 has also filed an Affidavit dated 4th February 2016. He reiterated that the marriage between himself and Petitioner has been dissolved. In paragraph 8, he has undertaken that he will not interfere or contact or disturb or interrupt in private life of the Petitioner. Respondent No. 2 is personally present in Court. On being questioned, he specifically stated that he has gone through the Affidavit and has understood the contents thereof and confirmed the contents of the Affidavit.

7. 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].

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. 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.

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 subject FIR. Accordingly, the Writ Petition is allowed in terms of prayer clause (b).

[S.C. GUPTE, J.]

[RANJIT MORE, J.]