

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

CRIMINAL APPLICATION (L.) NO. 1353 OF 2016

Mr. Ravindra Namdev Sonavane ... Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. Ravindra N. Sonavane, Applicant in-person, present.

Mr. K. V. Saste, APP for the State-Respondent No.1.

Ms. Priyanka Thakur, Advocate for the Respondent No.2.

**CORAM : V. M. KANADE AND
Ms.NUTAN D.SARDESSAI,JJ.**

DATE : 09th DECEMBER, 2016

P.C. :

1 Rule. Rule is made returnable forthwith by consent of the parties. Heard finally.

2 Heard the Applicant, who is appearing in-person, the learned counsel appearing on behalf of the Respondent No.2 - Complainant and learned APP for the State.

3 A complaint was filed by the Respondent No.2 - complainant against the applicant for the offences punishable

under sections 498-A, 406, 323, 504 & 506 of the Indian Penal Code. It was registered with Kalmboli Police Station, Navi Mumbai vide FIR No. I-325 of 2011.

4 The parties have amicably settled the dispute. The Applicant has deposited an amount of Rs. 7.50 lakhs in the Family Court towards permanent alimony. Petition No.A-2945 of 2013 is filed in the Family Court by mutual consent under section 13B of the Hindu Marriage Act. One of the conditions in that Consent Terms is that the Complainant should give no objection for quashing of the criminal complaint.

5 We have interviewed the Complainant-Respondent No.2. She has stated that she has filed Consent Terms in the Family Court at Bandra, Mumbai and she has no objection if the criminal complaint is quashed. A copy of the Consent Terms is annexed to the petition.

6 The question which falls for consideration before this court is whether in cases where a cognizable offence has been committed and the offence is registered by the police, such complaints should be quashed by the High Court while exercising its inherent jurisdiction under section 482 of the Criminal Procedure Code.

7 The Apex Court in case of **Madan Mohan Abbot vs. State of Punjab**, (2008) 4 Supreme Court Cases 582 has observed in para 6 as under :

“6. We need to emphasis that it is perhaps advisable that in disputes where the question involved in of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

8 In respect of a matrimonial dispute which gave rise to the criminal complaint being filed by the wife, the Apex Court in the case of **B. S. Joshi & Ors. vs. State of Haryana & Anr.**, reported in AIR 2003 Supreme Court 1386, has also taken a similar view. With specific reference to the matrimonial complaint, the Apex Court has observed in para 13 of the judgment as under :

“13. The observations made by this Court, though in a slightly different context, in G.V. Rao V.L.H.V. Prasad and others ((2000) 3 SCC 693) are very apt for determining the approach required to be kept in view in matrimonial dispute by the Courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly extent which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about re-oproachment are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different Courts.”

9 This case of **B.S.Joshi**, cited supra, was referred to the larger Bench by two Judge Bench of the Apex Court. The larger Bench of the Supreme Court in **Gian Singh vs. State of Punjab & Anr.**, reported in (2012) 10 Supreme Court Cases 303, decided the said reference and accepted the view taken by the two Judge Bench of Supreme Court in case of **B. S. Joshi** (supra).

10 There is another facet to this problem. Very often, the wife, who is victim of atrocities committed by the husband and his family members, after she (wife) files a complaint, has to undergo a trauma of going to the court altogether for herself to attend the matter and it is a common knowledge that criminal cases remain pending for the period between 5 years to 10 years and the complainant, therefore, has to practically remain present before the court on number of occasions. Secondly, the complainants in such cases also get frustrated and out of frustration possibly they want a release from this pendency of cases.

11 We, having considered these ground realities, are of the view that though section 498A is not compoundable, this court while exercising its writ jurisdiction under Article 226 of the Constitution of India and using its inherent power under section 482 should quash the complaint some times for the benefit of wife.

12 The Apex Court has noted these ground realities in a recent judgment in the case of **Lalita Kumari vs. Government of U.P. & Ors.** with connected matters, reported in AIR 2012 Supreme Court 1515. As a result of the said judgment delivered by larger Bench of the Apex Court, Notifications have been issued by the Government of Maharashtra and also the Central Government, directing the police not to register the complaints hastily but to make proper preliminary investigation to find out whether the allegations made in the complaint are correct or not.

13 Taking into consideration the above facts and also the fact that the complainant has given her no objection to quash the complaint and since we feel that quashing of the said complaint is in the best interest of the complainant-wife, we have no hesitation in allowing this criminal application.

14 Criminal Application is allowed in terms of prayer clause (b). Rule is made absolute accordingly.

15 The Criminal Application is disposed of.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J)

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