

Jagdish Ganpat Budha and Others. ..Applicants.
Versus
 Janvi Jagdish Budha and Another. ..Respondents.

Mr. D. G. Parab for the Applicants.
Ms. Amita P. Savla for Respondent No. 1.
Mrs. M. M. Deshmukh, learned APP for the State.

Coram : RANJIT MORE &
S. C. GUPTA, JJ.
Date : **January 21, 2016.**

1. Heard learned Counsel appearing for the respective parties. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash an FIR against them, registered with Varsova Police Station, Mumbai being C.R.No.96 of 2014. The said FIR is registered at the instance of Respondent No.1, wherein the allegations against the Applicants pertain to the commission of offence punishable under sections 498A and 406 read with 34 the Indian Penal Code, 1860.

2. Applicant No.1 and Respondent No.1 are the husband and wife. Rest of the Applicants are the family members of Applicant No.1. The 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 application is one of them.

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 application is filed for quashing the above FIR, by consent of original complainant-Respondent No.1 herein. They submitted that in the family Court proceedings before the Family Court at Bandra, Mumbai the parties have already filed consent terms in M. J. Petition No.A-3094 of 2013.

4. Respondent No.1 has filed an affidavit dated 16th January 2016 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Applicants in the subject FIR in view of the settlement of disputes. She has solemnly affirmed that she has no objection for quashing the FIR in question.

5. 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 the FIR in question lodged by her against the Applicants for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860.

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 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].

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 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 FIR

alive except ultimately burdening the Criminal Courts which are already overburdened.

8. In the light of the principles laid down by the Apex Court in the aforesaid decisions 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, application is allowed in terms of prayer clause (a).

[S. C. GUPTE, J.]

[RANJIT MORE, J.]