

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4951 OF 2015

Debesh Ramesh Raikwar. ..Petitioner.
Versus
State of Maharashtra & Another. ..Respondents.

AND
WRIT PETITION NO. 2280 OF 2015

Ramesh Raikwar & Others. ..Petitioners.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Milan Desai i/b T. R. Patel for the Petitioner.
Mrs. S. V. Sonawane, learned APP for the State.
Mr. R. M. Agrawal for Respondent No. 2.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.
Date : **January 14, 2016.**

P. C. :

1. As both these writ petitions are seeking to quash the very same proceedings, both these petitions are being disposed of by this common order. The Petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India seeking to quash the proceedings of CC No.445/PW/2015 pending on the file of learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai. The said proceeding is the result of FIR registered with Malad Police Station at the instance of Respondent No.2, wherein the allegations made against the

Petitioners are for the offence punishable under sections 498A, 406, 506, 504, 323 read with 34 of the Indian Penal Code, 1860.

2. Heard learned Counsel appearing for the Petitioner, the learned Counsel appearing for the Respondent No.2 and learned APP for the State.

3. The Petitioner in WP No.4951/15 is husband and Respondent No.2 is wife, who got married on 2nd May 2014. The Petitioners in WP No.2286/15 are the in-laws of Respondent No. 2. 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 petitions is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of trial into above 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 and pursuant to the understanding arrived at between them, the instant petitions are filed for quashing the above criminal proceedings, by consent of Respondent No.2 – original complainant.

5. Respondent No.2 has filed an affidavit dated 14th January 2016 wherein she has stated that in view of the

settlement arrived at between the parties before the Family Court at Banda, Mumbai she is not interested in continuing with the criminal prosecution of the Petitioners in a case arising out of her FIR lodged with Malad Police Station. She has solemnly affirmed that all disputes are set at rest as per the consent terms filed before the Family Court at Bandra, Mumbai being Petition No. 2348 of 2015 and therefore she is withdrawing all the allegations made against the Petitioners in the her FIR and that she has no objection for quashing the proceedings in question.

6. Respondent No.2 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 criminal proceedings in question initiated by her against the the Petitioners.

7. Debesh husband of Respondent No. 2 is present in the Court. he submitted that as agreed in the consent terms he has already deposited an amount of Rs. 7.5 lacs in the family Court and he will deposit balance amount on or before next date. He submitted that once the subject criminal proceedings are quashed, he has no objection for Respondent No. 2 withdrawing the said amount.

8. 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 criminal proceedings. Hence, Writ Petition No. 2286 of 2015 is made absolute in terms of prayer clause (A) and Writ Petition No. 4951 of 2015 is made absolute in terms of prayer clause (b). No order as to costs.

10. At this stage, it was pointed out that *stridhan* belonging to Respondent No.2 recovered under the Panchanama dated 6th December 2014 has already been handed over to Respondent No.2 on her executing interim bonds. Since the proceedings arising out of the subject FIR, are quashed by this order, bonds given by Respondent No.2 stand discharged.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]