

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2006 OF 2011

Rajendra s/o Dr. K. B. Shrivastava.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. A. M. Sarogi for the Petitioner.

Ms. S. D. Shinde, APP for the State.

Mr. Abhijeet Naik for Respondent No. 2.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.

Date : **June 14, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. Petition is filed for quashing the proceedings of Case bearing No. 601/PW/2011 pending on the file of Special Judge, Sessions Court at Mumbai. The said case arises out of registration of FIR bearing No. 125 of 2008 with Nehru Nagar Police Station, Mumbai against the Petitioner and Respondent No. 3 to 7. The said FIR is registered at the instance of Respondent No. 2, alleging commission of the offence punishable under sections 498A, 406 and 494 read with 34 of the Indian Penal Code, 1860 and section 3(1)(ii) and 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 .

2. Petitioner and Respondent No. 2 got married on 20th

March 1991. During the wedlock, they gave birth to a son by name Sonu. The marital discord between the parties gave rise to filing of several civil as well as criminal proceedings. The subject matter of the present writ petition is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of present writ petition as well as trial of the subject criminal case, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and have accordingly filed MJ Petition F-1185/2017 in Family Court at Bandra. In that petition, parties have filed consent terms. Copy of the said petition and consent terms are produced on record by the Petitioner by filing additional affidavit dated 14th June 2017. In terms of clause 6 of the consent terms, parties agreed that custody of the minor son shall remain with Respondent No. 2. Under clause 13, the Petitioner agreed to pay an amount of Rs.40 lakhs to Respondent No. 2 by way of full and final settlement of her all claims. The learned Counsel appearing for the respective parties submitted that the Petitioner has already deposited the amount of Rs.40 lakhs in the Family Court. learned Counsel appearing for the Petitioner submitted that Respondent No. 2 can withdraw this amount immediately after decree of divorce by

mutual consent is granted. Statement is accepted.

4. In the light of above, Respondent No. 2 has filed affidavit dated 14th June 2017. In paragraph 3 she has given no objection to quash the subject criminal case against the Petitioner and Respondent No. 3 to 7.

5. 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 Petitioner and Respondent No. 3 to 7.

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 criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

8. 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. In the circumstances, petition is made absolute in terms of prayer clause (a).

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]