

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1092 OF 2017

Kunal @ Krunal Jatin Vyas and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. S. K. Farakate for the Petitioners.

Ms. R. M. Gadhavi, APP for the state.

Mr. Atul U. Rathod for Respondent No. 2.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **March 21, 2017.**

P. C. :

1. The petition is filed invoking the jurisdiction 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 proceedings of Case No. 620/PW/2016 pending on the file of learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai. The said case is the offshoot of FIR No. 459 of 2015 registered with Ghatkopar Police Station at the instance of Respondent No. 2 against the Petitioners for the offence punishable under sections 498A, 406, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No. 1 and Respondent No. 2 are husband wife. Rest of the Petitioners are the family members of Petitioner No. 1. 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 petition is one of them.

3 The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceedings, 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 petition is filed for quashing the above criminal proceedings, by consent of original complainant - Respondent No. 2 herein.

4. Respondent No.2 has filed an affidavit dated 28th February 2017 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in the subject criminal case. She has solemnly affirmed that she has no objection for quashing the proceedings of the criminal case No. CC No. 620/PW/2016 pending on the file of learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai.

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 instituted at her instance against the Petitioners for the offence punishable under sections 498A and 406, 323, 504 and 506 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.”

7. Similar view has been taken by the Full Bench of this Court in Abasaheb Yadav Honmane vs. State of Maharashtra [2008(5) L.J.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. We are of the view that in the backdrop of the aforesaid fact-situation, the continuation of prosecution of the Petitioners in the instant case will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the subject criminal proceedings in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

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 in question. Accordingly, petition is allowed in terms of prayer clause (a).

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]