

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1222 OF 2017

Yash Dilip Amle and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Sandesh D. Patil i/b Ms. Anusha B. Amin for the Petitioner.

Mrs. M. H. Mhatre, APP for the State.

Ms. Amrita Soni for Respondent No. 2.

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

Date : **June 21, 2017.**

P. C. :

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

2. Petition is filed for quashing the FIR bearing No. I-212 of 2016 registered with Dombivali Police Station at the instance of Respondent No. 2. In the said FIR, the Petitioners are arraigned as accused for the offence punishable under section 498A, 406, 506 read with 34 of IPC.

3. Petitioner No.1 and Respondent No.2 got married in the year 2002. Rest of the Petitioners are the relatives of Petitioner No. 1. The matrimonial dispute between the parties gave rise to the filing of civil as well as criminal proceedings by the parties. The subject FIR is

one of them.

4. The learned Counsel appearing for the respective parties submitted that pending investigation of the subject FIR, the parties at the intervention of the friends, relatives and well-wishers settled their disputes amicably and have thereafter obtained divorce by mutual consent from the Court of Civil Judge, Senior Division, Kalyan at Thane on 25th April 2017. They further submitted that in terms of the understanding arrived at between the parties, Respondent No. 2 has given consent / no objection for quashing the subject FIR. Hence, present petition.

5. Affidavit dated 10th March 2017 has been filed by Respondent No. 2. In the said affidavit, she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in view of the amicable settlement of all disputes. She has solemnly affirmed that she is withdrawing all the allegations made against the Petitioner in the said FIR. She has further given express and unequivocal consent for the purpose of allowing the present writ petition.

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

7. 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 subject FIR alive except ultimately 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 subject FIR. Accordingly, petition is made absolute in terms of prayer clause (a).

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]