

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.434 OF 2017**

1.Rahul Shankar Tidke
2.Shankar Rambhau Tidke
3.Sandhya Shankar Tidke
4.Aparna Nitin Baral
5.Haribhau Pundlik Pawar
6.Sangita Haribhau Pawar .. Applicants

vs

1.State of Maharashtra
2.Smt.Savita Rahul Tidke .. Respondents

Mr.S.S.Katkar for Applicants
Mr.K.V.Saste APP for State
Ms.Anita Murgude for Respondent no.2
Mr.Rahul Shankar Tidke Applicant no.1 and
Smt.Savita Rahul Tidke Respondent no.2 present in Court

**CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.**

DATE : 20 JUNE, 2017.

P. C. :

1. Heard learned counsel for the Applicants, learned counsel for Respondent no.2 and the learned APP for the State.

2. The Application is filed for quashing the proceedings of Criminal Case no.2556/PW/2009 pending on the file of the learned Metropolitan Magistrate, Railway Mobile Court at Andheri. The said case arises out of registration of an FIR bearing C.R.No.424 of 2008

registered with Andheri police station. The said FIR is registered at the instance of Respondent no.2 for the offence under sections 498-A 406 read with 109 of the Indian Penal code and section 4 of the Dowry Prohibition Act,1961.

3. The Applicant no.1 and Respondent no.2 are husband and wife. Rest of the Applicants are family members and relatives of the Applicant no.1. The matrimonial dispute between the parties gave rise to filing of criminal cases against each other. The subject criminal case is one of them.

4. Learned counsel for the respective parties submitted that the parties and their relatives have settled their disputes and during pendency of criminal case. The Applicant no.1 has filed M.J.Petition No.A-1307 of 2014 for divorce under section 13(1) (ia) and i(b) of the Hindu Marriage Act, 1955 in the Family Court, Bandra and Applicant no.1 and Respondent no.2 have amicably settled all the disputes. The parties have prepared Consent terms dated 31.3.2017 for divorce by mutual consent and have filed the same before the Family Court. The parties have agreed to withdraw the cases filed

by them against each other. In view of the settlement arrived at in the Consent Terms between the parties, they have approached this Court for quashing of Regular Criminal Case No.2556/PW/2009. A copy of the said consent terms is annexed at Exhibit B page 39. Under the consent terms, the parties have agreed to dissolve their marriage. Applicant no.1 has also agreed that the custody of the daughter namely Mukta born out of the wedlock shall remain with the Respondent no.2-mother and Respondent no.2 has agreed to give access of the child to the Applicant no.1 as per the convenience of the child and both the parties. Applicant no.1 undertook to pay Rs.60 lacs to Respondent no.2 towards her claim of maintenance/permanent alimony for herself and their daughter for past, present and future. Applicant no.1 has accordingly deposited an amount of Rs.60 lacs with the Family Court,Bandra Mumbai and a Receipt to that affect is annexed at page 41 of the Petition.

5. Applicant no.1 is present in Court and he makes a statement that he has no objection to hand over the custody of the daughter to Respondent no.2 and Respondent no.2 to withdraw the said amount once the marriage between Applicant no.1 and

Respondent no.2 is dissolved by the Family Court, Mumbai filed under section 13 (b) of the Hindu Marriage Act, 1955. Statement is accepted.

6. Respondent no.2 has filed an Affidavit dated 7.4.2016 in this Court. In paragraph nos. 5 and 6 thereof she has stated that the differences between the Applicants and herself have been settled amicably without there being any undue influence, coercion and pressure on her and she is giving the Affidavit out of her own will and in paragraph 6 she has given no objection to quash the complaint/FIRs of the subject case as against the Applicants.

7. Respondent no.2 is personally present in the Court. On a specific query by this Court, 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 Applicants for the offence punishable under sections 498(A) 406, read with section 34 of Indian Penal Code and under section 4 of Dowry Prohibition Act, 1961.

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.”

9. 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].

10. 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. 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.

11. 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.

12. Accordingly, the Application is allowed in terms of prayer clause (b).

(SARANG V. KOTWAL, J)

[RANJIT MORE, J]

