

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1903 OF 2017

1.Maneck Bamanbehram  
2.Rashid Bamanbehram  
3.Armaity Bamanbehram  
4.Nazneen Kasad

.. Petitioners

vs

1.Pinaz M.Bamanbehram  
2.State of Maharashtra

.. Respondents

Ms.Zenobia Irani for Petitioners

Ms.A.S.Pai APP for State

Mr.A.R.Mokashi I.b Mr.R.B.Mokashi for Respondent no.1

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

**DATE : 20 JUNE, 2017.**

**P. C. :**

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

2. The Petition is filed for quashing the proceedings of criminal case No.15/PW/2016 pending on the file of Metropolitan Magistrate, 40<sup>th</sup> Court, Girgaum, Mumbai. The said case arises out of FIR bearing CR No.15 of 2016 registered with Gaondevi Police Station, Mumbai, for the offences punishable under sections 354(A), 380, 406, 420, 497 and 120-B of the IPC. The said FIR is registered at the instance of Respondent no.1. Petitioner no.1 and Respondent

no.1 got married on 1.11.2009. Petitioner nos.2 to 4 are in laws of Respondent no.1. The matrimonial dispute between the parties gave rise to filing of several civil and criminal proceedings and subject criminal case is one of them.

3. Pending trial of the said case, the parties and their relatives have settled their disputes and have filed Consent terms before the Parsi Chief Matrimonial Court being Parsi Suit No.16 of 2015. In terms of the understanding in the Consent Terms it is agreed between Petitioner No.1 and Respondent no.1 that their marriage stood dissolved. The Consent Terms are filed in the said Parsi Suit. His Lordship Hon'ble Shri Justice K.R.Shriram vide order dated 23.3.2017 decreed the said Suit and dissolved the marriage under section 32B of the Parsi Marriage and Divorce Act, 1936. In the Consent Terms, the parties have agreed to withdraw the cases filed by them against each other. In terms of the settlement arrived in the Consent Terms between the parties, they have approached this Court for quashing of Case No.15/PW/2016 pending before 40<sup>th</sup> Metropolitan Magistrate Court, Girgaum, Mumbai. In terms of Consent terms arrived at between the petitioners and Respondent no.1, Respondent No. 2 has stated that she is not interested in continuing with D.V. Case No.75 of 2015 filed by her against the Petitioners. She has affirmed that she is withdrawing all the allegations made against the Petitioner no.1 and that she has no objection for quashing the proceedings of the said case.

4. The Respondent no.1 has filed an Affidavit dated 20.6.2017. In para 2, she has stated that in Parsi Suit no.16 of 2015 the parties have agreed to withdraw all proceedings against each other and therefore she has no complaint against the Petitioners and has prayed for the quashing of subject criminal case. In paragraphs 5 and 6 thereof she has stated that the differences between the Petitioners and herself have been settled amicably and without there being any undue influence, coercion pressure on her, she is giving the affidavit out of her own will and she has given no objection to quash the complaint/FIRs of the subject case as against the Petitioners.

5. Respondent no.1 is not present in Court. Her counsel however states that she is a practicing Advocate of this Court. Therefore, we are not insisting for her presence especially when her Advocate who is present before us has confirmed the filing of Affidavit as well as the fact that the parties have arrived at the Consent Terms.

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

**(SARANG V. KOTWAL, J.)**

**[RANJIT MORE, J.]**