

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 545 OF 2017

Sandesh R. Hadye and others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. S. R. Gaud for the Applicant.

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

Ms. Gayatri Shahane for Respondent No. 2.

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

Date : **June 8, 2017.**

P. C. :

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

2. The application is filed seeking quashment of proceedings of Criminal Case bearing CC No.833/PW/2016 pending on the file of learned Metropolitan Magistrate, 15th Court, Mazgaon (Sewri). The said case has arisen from C.R.No.305 of 2014 registered with Kalachowky Police Station at the instance of Respondent No. 2, for the offence punishable under sections 498A, 324, 342, 504 and 406 read with 34 of the Indian Penal Code, 1860.

3. Applicant No.1 and Respondent No. 2 got married on 10th July 2011. Applicant No. 2 and 3 are the in-laws of Respondent No. 2. 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 application is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement. Pursuant to the same, present application is filed for quashing the above criminal proceedings, by consent of Respondent No. 2. Consent terms to that effect are also filed before the Family Court whereunder Respondent No. 2 has given undertaking to give consent for quashing the subject criminal case.

5. Affidavit dated 8th June 2017 has been filed by Respondent No. 2. In paragraphs 7 & 8 of the said affidavit, she has stated that she has no objection for allowing the application preferred by the Applicants and for quashing the proceedings of the criminal case No. CC No. 833/PW/2016.

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 criminal proceedings in question initiated by her against the Applicants for the offence punishable under sections 498A, 324, 342, 504 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 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 proceeding. Accordingly, application is allowed in terms of prayer clause (b).

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]