

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 592 OF 2017

Mitul Kiran Furia and Others. ..Applicants.

Versus

Drushti Mitul Furia and Another. ..Respondents.

Mr. Gajendra Jadhav for the Applicants.

Ms. Saroj Jadhav for Respondent No. 1.

Mr. K. V. Saste, APP for the State.

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

Date : **July 7, 2017.**

P. C. :

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

2. The instant application is filed under section 482 of the Code of Criminal Procedure, 1973 seeking quashment of the FIR bearing CR. No. 88 of 2017 registered with Borivali Police Station, Mumbai at the instance of Respondent No. 1 for the offence punishable under sections 403, 406, 420, 465, 468, 470 and 498A read with 34 of the Indian Penal Code, 1860.

3. Applicant No.1 and Respondent No.1 are husband wife. Rest of the Applicants are the relatives of Applicant No.1. Matrimonial disputes between the parties gave rise to the filing of the above FIR.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation of above FIR, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present application is filed for quashing the above FIR by consent of Respondent No.1.

5. Affidavit dated 7th July 2017 has been filed by Respondent No. 1. In paragraph 3 of the said affidavit, she has prayed for the quashment of the subject FIR.

6. Respondent No.1 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 subject FIR initiated by her against the Applicants.

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 burdening ultimately 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, application is allowed in terms of prayer clause (a).

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]