

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 615 OF 2017

Gaurang N. Thakkar. ..Applicant.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. P. G. Badole for the Applicant.

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

Mr. Omkar G. Nagvekar 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 Applicant, the learned Counsel appearing for Respondent No. 2 and the learned APP for the State.

2. The instant application is filed for quashing the proceedings of criminal case bearing RCC No. 211 of 2012 pending on the file of JMFC, 5th Court, Thane. The said case is an offshoot of FIR bearing CR No. I-360/2010 registered with Mira Road Police Station against the Applicant for the offence punishable under sections 420, 465, 467 and 494 read with 34 of IPC. The said FIR is registered at the instance of Respondent No. 2.

3. The Applicant and Respondent No. 2 are the husband and wife. The matrimonial disputes between the parties gave rise to filing of several proceedings before various authorities/courts and the subject criminal case is one of them.

4. The learned Counsel appearing for the respective parties submitted that pending trial of the above case, parties arrived at compromise and entered into consent terms and filed the same before the Gujarat High Court in Criminal Revision Application No. 395 of 2015. In terms of the consent terms, Respondent No. 2 agreed to withdraw the subject criminal case / to give no objection for quashing. They submitted that in pursuance of such understanding arrived at between the parties, present application is filed for quashing the subject criminal case by consent.

5. Affidavit dated 15th June 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 case pending against the Applicant. She has solemnly affirmed that she is withdrawing all the allegations made against the Applicant in the said FIR and that she has no objection for quashing the proceedings of criminal case No. RCC No. 211 of 2012.

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 Applicant.

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.]