

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 724 OF 2017

Sahil Namjed Khan and Others. ..Applicants.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Datta Mane for the Applicants.
Mr. K. V. Saste, APP for the State.
Mr. P. J. Patil for Respondent No. 2.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.
Date : **July 19, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant, the learned Counsel appearing for the Respondent No. 2 and the learned APP for the State.
2. The application is filed seeking quashment of the FIR bearing CR. No.492 of 2016 registered with Oshiwara Police Station at the instance of Respondent No.2 for the offence punishable under sections 498A, 323, 504 and 406 read with 34 of the Indian Penal Code, 1860.
3. Applicant No. 1 and Respondent No. 2 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 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 investigation, 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 petition is filed for quashing the above FIR, by consent of Respondent No. 2.

5. Respondent No. 2 has filed an affidavit dated 19th July 2017. In paragraph 5 of the said affidavit, she has given no objection for quashing of the subject FIR. 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 FIR in question initiated by her against the Applicants.

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.”

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].

7. 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 ultimately burdening the Criminal Courts which are already overburdened.

8. 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.]