

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3622 OF 2017

Vijay Navnath Kamble and others	Petitioners
versus	
The State of Maharashtra and others	Respondents

Ms.Aneeta K. Katariya for petitioners.
Mr.V.B.Konde-Deshmukh, APP, for State.
Mr.PH.Padave for respondent no.2.

CORAM : RANJIT MORE AND
PRAKASH D. NAIK, JJ.

DATE : 6th October 2017

PC :

1. Learned counsel for petitioners at the outset seeks leave to amend the prayer clause of the petition so as to give particulars of the criminal case. Leave granted. Necessary amendment shall be carried out forthwith.

2. Heard learned counsel for petitioners, respondent no.2 and learned APP. The petition is filed for quashing and setting aside the proceedings of Regular Criminal Case No.716 of 2016 pending on the file of learned 1st Court of Judicial Magistrate, First Class, Kalyan. The said case arises out of first information report being CR No.1261 of 2016 registered with Mahatma Phule Chowk Police Station, at Kalyan for offences punishable under Sections 498A, 323, 406, 504, 506 r/w 34 of Indian Penal Code. The petitioner nos.1 and 3 are

husband and wife. Rest of the petitioners are relations of petitioner no.1. The matrimonial dispute between the parties gave rise to civil as well as criminal proceedings. Present petition is also one of them.

3. Pending trial of the subject criminal case, the parties have settled their disputes amicably and accordingly entered into Consent Terms dated 6th October 2017. The consent terms are signed by petitioner no.1 and respondent no.3 along with their respective counsel. Petitioner no.1 and respondent no.3 are present in Court and they have gone through the contents of consent terms. The consent terms dated 6th October 2017 are taken on record and marked "X" for identification.

4. Pursuant to the understanding arrived at between the parties in the above consent terms, the parties pray for quashing of the subject criminal proceedings by consent. Respondent no.3 has accordingly filed an affidavit dated 6th October 2017. In paragraph no.3 she has given no objection for quashing the subject criminal proceedings. Respondent No.3 is personally present before the Court. On a 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 and/or criminal proceedings being RCC No.1261 of 2016 initiated by her against the petitioners.

5. 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. 461].

6. 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/criminal proceedings being RCC No.1261 of 2016 pending except ultimately burdening the Sessions Courts which are already overburdened.

7. 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 and criminal proceedings being RCC No.1261 of 2016.

8. Accordingly, writ petition is allowed in terms of prayer clauses (b) and (c).

(PRAKASH D. NAIK, J.)

(RANJIT MORE, J.)

MST