

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3740 OF 2017

Jagdish C. Chavan and Another.

..Petitioners.

Versus

Rashmi N. Sharma & Another.

..Respondents.

Mr. Gopalkrishna R. Hegde for the Petitioner.

Ms. Pooja Saxena for Respondent No. 1.

Mrs. A. s. Pai, APP for the State.

Coram : RANJIT MORE &
PRAKASH D. NAIK, JJ.

Date : **October 3, 2017.**

P. C. :

1. Heard Mr. Hegde, the learned Counsel for the Petitioners, Ms. Saxena, the learned Counsel for Respondent No. 1 and Mrs. Pai, the learned APP for the State.

2. The writ petition is filed invoking the jurisdiction of this Court under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings of criminal case, being CC No.142/PW/2016 pending on the file of learned Metropolitan Magistrate, 12th Court, Bandra, Mumbai. The said case is an offshoot of registration of FIR bearing CR. No.150 of 2014 with Dharavi Police Station. The said FIR was registered at the instance of Respondent No.1, alleging commission of the offence punishable under sections 498A, 406 and 314 read with 34 of the Indian Penal Code, 1860.

3. The learned Counsel appearing for the respective parties submitted that pending trial of the above case, parties settled their dispute amicably and filed consent terms before the Judge Mediator in Petition No. A-754 of 2014, copy of which is annexed at Exhibit-B page No. 25. In terms of the consent terms parties agreed for divorce by mutual consent under section 13-B of the Hindu Marriage Act, 1955. Petitioner No. 1 has agreed to pay to Respondent No. 1 an amount of Rs.4 lakh towards the full and final settlement of all claims towards the maintenance and permanent alimony. The learned Counsel for the Petitioners makes a statement that Petitioner No. 1 has accordingly deposited the amount of Rs. 4 lakhs with the Family Court at Bandra. Counsel submits that the Petitioners have no objection if Respondent No. 1 withdraws this amount, once the proceedings of the subject criminal case are quashed. Statement is accepted.

4. In pursuant to the understanding arrived at between the parties, they have approached this Court for quashing the subject case by consent. Respondent No. 1 has accordingly filed an affidavit dated 3rd October 2017, wherein she has stated that in view of the settlement of all disputes between the parties, she has no objection to quash the proceedings of the subject case.

5. 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 criminal proceedings initiated by her against the Petitioners.

6. The Apex Court in B. S. Joshi vs. State of Haryana [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 criminal proceedings pending except 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 criminal proceedings. Accordingly, petition is made absolute in terms of prayer clause (a).

9. Respondent No. 1 is at liberty to withdraw the amount of Rs. 4 lakh deposited by Petitioner No. 1 in the Family Court at Bandra.

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]