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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1004 OF 2017

Azar Feroze Koul and ors ... Applicants

V/s.

The State of Maharashtra
and anr ... Respondents

Mr. Rahul Dangle, for the Applicants.
Mr. V. B. Konde Deshmukh, APP for the
Respondent State.
Mrs. S. S. Karmarkar, for Respondent No.2.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 20th NOVEMBER, 2017.

P.C. :

- 1] Heard learned counsel for respective parties.
- 2] This application is filed for quashing and setting aside F.I.R. No.4 of 2017, registered at the instance of respondent No.2, with Malad Police Station, Mumbai, for the offences punishable under Sections 498(A), 377, 354, 406, 504, 506 of the Indian Penal Code.
- 3] Applicant No.1 and respondent No.2 are the husband and wife. Rest of the applicants are the relatives of applicant No.1. The matrimonial dispute between the parties gave rise to registration of

subject F.I.R. Pending investigation, the parties with the help of elders and relations settled their dispute and accordingly entered into Memo of compromise, which is annexed at page No.20 (Exhibit “B”) to this application.

4] In terms of memo of compromise, the parties have started residing together.

5] Respondent No.2 is personally present in the Court. She has accordingly filed affidavit dated 13th October, 2017. In paragraph No.3 she has given no objection to quashing the subject F.I.R.

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 XXXA 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.”

7] Accordingly, the present application is allowed in terms of prayer clauses (a), (b) and (c). The F.I.R. bearing No.4 of 2017, registered with Malad Police Station, Mumbai, at the instance of respondent No.2, for offence punishable under Sections 498(A), 377, 354, 406, 504, 506, of the Indian Penal Code is hereby quashed and set aside.

8] Application is disposed of in above terms.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]