

Amk

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

WRIT PETITION NO. 3821 OF 2017

Sagar Tukaram Kakad & Ors. .. Petitioners
Vs.
State of Maharashtra & Anr. .. Respondents

Mr. K. U. Patil for the Petitioners.
Mrs. A. S. Pai, APP for the Respondent-State.
Mr. S. R. Phanse for Respondent No.2.

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

DATE : 12th OCTOBER, 2017.

P. C. :

1. Leave to amend prayer clause so as to give the details of criminal case is granted. Amendment to be carried out forthwith.
2. This petition is filed for quashing the proceedings in Regular Criminal Case No. 1109 of 2012 by consent which are initiated by respondent No.2 for the offence punishable under Sections 498-A, 406, 323, 504, 506 read with 34 of the Indian Penal Code. The dispute arises out of matrimonial discord.
3. Petitioner No.1 is husband of respondent No.2. Rest of the petitioners are relatives of petitioner No.1. It is submitted by the learned counsel for the petitioners and respondent No.2 that both the parties have

arrived at amicable settlement. The parties have also executed Consent Terms before the Family Court, Nashik in petition bearing No. A330/2015. In view of settlement the parties have approached this Court for quashing the subject proceedings.

3. Respondent No.2-complainant has also filed an affidavit executed on 09.10.2017. In the affidavit in paragraphs 6 and 7 it is stated that the parties have arrived at settlement and the complainant has no objection for quashing the said proceedings against the petitioners.

4. 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 subject criminal proceedings 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 46].

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 criminal proceedings pending except ultimately burdening the Criminal 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 criminal proceedings. Accordingly, petition is made absolute in terms of prayer clause (a).

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]