

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3868 OF 2017

Anagha Pratim Gujar.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. V. B. Shivarkar for the Petitioner.

Mr. K. V. Saste, APP for the State.

Mr. P. M. Dabade for Respondent No. 2 and 3.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 21, 2017.**

P. C. :

1. Heard the learned Counsel for the Petitioner, the learned Counsel for Respondent No.2 and the learned APP for the State. The Complainant herself has approached to this Court in its jurisdiction under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 seeking to quash and set aside the proceedings of criminal case against Respondent Nos. 2 and 3, which is an offshoot of the FIR lodged by her. The said proceedings, namely, RCC No.4767 of 2016 is pending on the file of JMFC, Shivajinagar, Pune which has arisen from FIR bearing No.380 of 2015 registered with Hinjawadi Police Station, Pune wherein allegations are made of the commission of

the offence punishable under sections 498A, 406 and 420 read with 34 of the Indian Penal Code, 1860.

2. The Petitioner and Respondent No. 2 got married on 22nd January 2017. Respondent No. 3 is mother-in-law of the Petitioner. The matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against each other and the subject matter of the present petition is one of them.

3. The learned Counsel appearing for the respective parties submitted that pending trial of the said criminal case, the parties have settled their disputes amicably and have filed joint petition under section 13-B of the Hindu Marriage Act, 1955 before the Family Court at Pune. By this petition, the parties agreed to obtain divorce by mutual consent. Parties also agreed to get subject criminal case quashed and set aside by consent of the Petitioner. The learned Family Court at Pune has accordingly passed decree of divorce by mutual consent on 12th June 2017 and the marriage between the Petitioner and Respondent No. 2 is dissolved. Counsel submitted that as per the said settlement, parties have now approached this Court for quashing the

proceedings of RCC No. 4767 of 2016.

4. Admittedly, the present petition has been affirmed by the Complainant herself wherein she has sought quashing of the subject criminal case. The Petitioner is personally present before the Court. On specific query made by us, she submitted that she has filed the present petition 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 Petitioner. She has reiterated what has been stated hereinabove.

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 (b).

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]