

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3983 OF 2017

Tushar Manik Hande and Others. ..Petitioners.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. P. K. Waghmare for the Petitioner.
Mr. V. B. Kondedeshmukh, APP for the State.
Mr. Prashant Aher for Respondent No. 2.

Coram : RANJIT MORE &
SANDEEP K. SHINDE, JJ.
Date : **December 8, 2017.**

P. C. :

1. At the outset, the learned Counsel for the Petitioner seeks leave to amend the petition so as to give particulars of the criminal case. Leave granted. Necessary amendment be carried out forthwith.

2. Heard the learned Counsel for the Petitioner, the learned APP for the State and the learned Counsel for Respondent No. 2. Petition is filed for quashing and setting aside the proceedings of criminal case bearing CC. No. 100/PW/2016 pending on the file of learned Metropolitan Magistrate, 49th Court, Vikhroli. The said case arises out of registration of FIR bearing CR. No. 388 of 2014 registered with Ghatkopar Police Station at the instance of Respondent No. 2 for the offence punishable under section 498A and 406 read with 34 of

the Indian Penal Code, 1860.

3. Respondent No.2 and Petitioner No.1 got married on 14th February 2013. Rest of the Petitioners are the relatives of Petitioner No.1. The matrimonial dispute between the parties gave rise to the filing of various civil and criminal proceedings by the parties against one another, and the subject matter of present petition is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of aforesaid criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and filed consent terms before the Family Court at Bandra, Mumbai in Petition No. 203 of 2017. Petitioner No.1 and Respondent No. 2 have obtained decree of divorce on 14th July 2017. In terms of the consent terms arrived at between them, parties have approached this Court for quashing the proceedings of the subject criminal case by consent.

5. Respondent No.2 has filed an affidavit dated 24th November 2017. In paragraph 7 of the said affidavit, she has given no objection for quashing. 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 FIR /criminal proceedings initiated by her against the Petitioners.

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 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 ultimately 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, the proceedings of criminal case bearing No. 100/PW/2016 pending on the file of learned Metropolitan Magistrate, 49th Court, Vikhroli, Mumbai are hereby quashed and set aside. Petition stands disposed of.

[SANDEEP K. SHINDE, J.]

[RANJIT MORE, J.]