

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1222 OF 2016

Yashaswi Brahmdutt Ojha and Others. ..Applicants.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. L. M. Shukla for the Applicants.
Mr. K. V. Saste, APP for the State.
Mr. Gourav Chaubey for Respondent No. 2.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.
Date : **June 30, 2017.**

P. C. :

1. At the outset, the learned Counsel appearing for the Petitioner seeks leave to amend so as to correct cause title of the petition. Leave granted. Necessary amendment be carried out forthwith.

2. Heard the learned Counsel appearing for the Applicant and the learned Counsel appearing for Respondent No.2 as well as the learned APP for the State. The instant application is filed for quashing the proceedings of Criminal Case No. 1334/PW/2012 pending on the file of learned Metropolitan Magistrate, 67th Court, Borivali, Mumbai. The said case has arisen from FIR bearing CR. No.129 of 2011 registered with Dindoshi Police Station for the offence punishable under section 498A read with 34 of the Indian Penal Code, 1860. The

said FIR was registered at the instance of Respondent No. 2 herein.

3. Applicant No. 1 and Respondent No. 2 got married in the year 2007. Applicant Nos.2 to 5 are the in-laws of Respondent No. 2. The matrimonial discord between the parties gave rise to filing of civil as well as criminal proceedings and the present case is one of them. The learned Counsel appearing for the respective parties submitted that pending trial parties settled their disputes amicably and filed consent terms before the Family Court at Bandra, Mumbai in Petition No.A-2587 of 2010. In terms of these consent terms, Applicant No. 1 agreed to pay Rs. 2,50,000/- to Respondent No. 2 towards the claim for alimony. Applicant No. 1 and Respondent No. 2 agreed to obtain divorce by mutual consent. The learned counsel further submitted that terms of the consent terms are complied with and now marriage between Applicant No. 1 and Respondent No. 2 is dissolved and Respondent No. 2 has received the amount of Rs. 2,50,000/- and in the light of this parties have approached this Court for quashing the above criminal case by consent.

4. Affidavit dated 30th March 2017 has been filed by Respondent No. 2. In paragraph 2 of the said affidavit, she has stated that she has no objection for quashing the proceedings of

the subject criminal case pending against the Applicants. 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 criminal proceedings in question initiated by her against the Applicants for the offence punishable under sections 498A read with 34 of the Indian Penal Code, 1860.

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 criminal proceedings pending except 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, application is allowed in terms of prayer clause (a).

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]