

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4038 OF 2017

Utkarsh Chauhan & Anr.

.. Petitioners

V/s.

Pragaya Utkarsh Chauhan & Anr.

.. Respondents

.....

Mr.Manoj M. Gadkari, Advocate for the Petitioners.

Mrs.V.S. Mhaispurkar, APP for Respondent - State.

Mr.J.J. Mohite, Advocate for Respondent No.2.

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

DATED : OCTOBER 4, 2017.

P.C. :

Not on Board. Production of papers are allowed at
3:00 p.m.

2 Heard the learned counsel for the petitioner,
respondent no.2 and learned APP for the respondent - State.

3 The petition is filed for quashing and setting aside the
proceedings of the criminal case bearing RCC No.251 of 2016
pending before the Judicial Magistrate First Class at Khadki,
Pune. The said case arisen out of registration of C.R.No.252 of

2015 with Vishrantwadi Police Station, Pune, at the instance of respondent no.2 for an offences punishable under Sections 498-A, 323, 504, 506, 352, 354 read with Section 34 of the IPC.

4 Petitioner no.2 is brother of the petitioner no.1. The matrimonial dispute between the parties gave rise to the filing of the civil as well as criminal proceedings. The subject proceeding is one of them. The subject criminal case is one of them. Pending trial, parties however, have settled their dispute and filed Consent Terms before the Family Court No.5, Pune, in P.A. No.8 of 2015, copy of which is annexed alongwith affidavit of Respondent no.2.

5 In pursuance to the understanding arrived at between the parties in the subject criminal proceedings, the respondent no.2 accordingly has filed an affidavit dated 27th June, 2017. In paragraph no.5, she has given no objection to quash the subject proceedings. Respondent no.2 is 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 the Petitioner.

6 The Apex Court in ***B. S. Joshi vs. State of Haryana reported***¹ 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.

1 AIR 2003 SC 1386

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***².

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***³, we find that no purpose would be served by keeping the subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

² 2008(5) LJ Soft 46

³ (2008) 4 SCC 582

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***⁴, we are of the considered view that there is no impediment in quashing the subject FIR.

9 Accordingly, the Writ Petition is allowed in terms of prayer Clause (b).

10 Writ Petition is, accordingly, disposed of.

(PRAKASH D. NAIK, J.)

(RANJIT MORE, J.)

4 2014 AIR SCW 2065