

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4057 OF 2017

Shrikant Manik Vhatkar and Others.

..Petitioners.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. A. T. Sangle for the Petitioner.

Mr. Rajiv Patil, Sr. Advocate with Savita Sawalkar i/b A. R. Ghade for
Respondent No. 2.

Mr. V. B. Kondedeshmukh, APP for the State.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 30, 2017.**

P. C. :

1. Heard the learned Counsel for the Petitioner, the
learned APP for the State and the learned Counsel for Respondent No.

2. The petition is filed seeking quashment of the proceedings of
criminal case bearing CC No. 1742/PW/2016 pending on the file of
learned Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The
said case is an offshoot of FIR bearing CR. No. 360 of 2014 registered
with Dahisar Police Station at the instance of Respondent No. 2 on the
allegation of commission of offence punishable under sections 498A
and 406 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No. 1 and Respondent No. 2 are the husband
and wife. Rest of the Petitioners are the relatives of Petitioner No. 1.

The unfortunate matrimonial discord between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against each and other and the afore-stated criminal case is also one of them.

3. Learned Counsel appearing for the respective parties submitted that pending trial of the afore-stated criminal case, the parties have amicably settled their disputes and differences, and in terms of the understanding arrived at between them, have approached this Court by way of present writ petition for quashing and setting aside proceedings of the afore-stated criminal case by consent of Respondent No. 2.

4. In the instant writ petition, Respondent No. 2 has filed an affidavit dated 29th November 2017. In paragraph 4 of the said affidavit, Respondent No.2 has given her unequivocal no objection to quash the proceedings of the subject criminal case. 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 decisions 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 CC No. 1742/PW/20146 pending on the file of learned Metropolitan Magistrate, 26th Court at Borivali, Mumbai are hereby quashed and set aside.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]