

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4117 OF 2017

Taranjit Singh Manpotra and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. K. H. Rajani for the Petitioner.

Mrs. A. S. pai, APP for the State.

Ms.Jessy Richard Payne for Respondent No. 2.

Coram : Ranjit More &
Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 7, 2017.**

P. C. :

1. Heard the learned Counsel for the Petitioners, 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 No. SC/288/15 pending on the file of Additional Sessions Judge, Dindoshi, Mumbai. The said case has arisen out of FIR bearing CR. No. 251 of 2012 registered with Samata Nagar Police Station at the instance of Respondent No. 1 for the offence punishable under sections 498A, 406 and 313 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 in-laws of Respondent No.2. Matrimonial disputes gave rise to the filing of civil as well as criminal proceedings by the parties against each other and the subject FIR and case is one of them.

3. The learned Counsel appearing for the respective parties submitted that pending trial of above case, parties have settled their disputes amicably and accordingly consent terms have been filed before the Family Court at Bandra, Mumbai in Petition No. A-2993/2016. Copy of the said consent terms is annexed at Exhibit-B to the petition. The said consent terms show that parties agreed to obtain divorce by mutual consent. Respondent No.2 has agreed to accept an amount of Rs.6 lakh from the Petitioner towards the permanent alimony. Respondent No.2 has further agreed that she would not proceed further with the subject criminal case pending against the Petitioners. It was told across the bar that in terms of the consent terms, Petitioner No.1 has deposited an amount of Rs.6 lakh in the Family Court at Bandra, Mumbai. Respondent No. 2 is entitled to withdraw the same after quashment of the subject criminal case.

4. Respondent No. 2 has accordingly filed affidavit. She has stated that the disputes are amicably settled in terms of the consent terms filed before the Family Court. In paragraph No. 7 she has solemnly affirmed that she has no objection if the petition is allowed and said proceedings / FIR is quashed.

5. 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, petition is made absolute in terms of prayer clause (B).

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]