

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1065 OF 2017

Monish Narayan Shetty & Ors.	...	Applicants
V/s.		
The State of Maharashtra & Anr.	...	Respondents

Mrs.Sonal Parab for the Applicants.
Mr.V.B. Kande-Deshmukh, A.P.P. for Respondent No.1-State.
Mr.S.R. Samel i/b. Ms.Nidhi Dotiya for Respondent No.2.

CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.

DATE : 31st OCTOBER, 2017.

P.C. :

1] Heard Mrs.Parab, learned counsel for the Applicants,
Mr.Kande-Deshmukh, learned A.P.P. for the State and Mr.Samel,
learned counsel for Respondent No.2.

2] This application is filed for quashing and setting aside the First Investigation Report (FIR) bearing C.R.No. 319 of 2015 registered with Oshiwara Police Station at the instance of Respondent No.2 for offence under Section 498(A), 406, 323, 504 read with 34 of Indian Penal Code.

3] Applicant No.1 and Respondent No.2 are the husband and wife. Applicant Nos.2 and 3 are in-laws of Respondent No.2. The

matrimonial dispute between the parties gave rise to filing of subject FIR.

4] During the investigation of the said CR, however, upon intervention of the Mediator, the parties have settled their dispute amicably and since last two years, Respondent No.2 is staying along with the Applicants in her matrimonial house.

5] In pursuance of the understanding arrived at between the parties, they have now approached for quashing and setting aside the subject CR.

6] Respondent No.2 has filed affidavit dated 9th October, 2017. In paragraph (6) of the said affidavit, she has given no objection to quash the subject CR. Respondent No.2 is personally present. On specific query, she states that she has gone through the petition and affidavit and understood the contents thereof. She also states that in view of the settlement of the dispute between the parties and they are now staying together, she has no objection to quash the subject FIR.

7] 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.”

8] Accordingly, the present application is allowed in terms of prayer clause (a). The C.R.No. 319 of 2015 registered with Oshiwara Police Station is hereby quashed and set-aside.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]