

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 5024 OF 2015

Prachi Raghav Goel	...	Petitioner
V/s.		
The State of Maharashtra & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 4397 OF 2017**

Apurva Rajat Agarwal & Anr.	...	Petitioners
V/s.		
The State of Maharashtra & Anr.	...	Respondents

Mr.S.P. Joshi for the Petitioner(s) in both matters.
 Mr.P.R. Shaikh, A.P.P. for Respondent No.1-State in WP/5024/2015.
 Ms.S.D. Shinde, A.P.P. for Respondent No.1-State in WP/4397/2017.
 Mr.S.R. Deshpande for Respondent No.2 in both matters.

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

DATE : 2nd NOVEMBER, 2017.

P.C. :

1] Heard Mr.Joshi, learned counsel for the Petitioner(s),
 Mr.Shaikh, learned A.P.P. for Respondent No.1-State in
 WP/5024/2015, Ms.Shinde, A.P.P. for Respondent No.1-State in
 WP/4397/2017 and Mr.Deshpande, learned counsel for Respondent
 No.2.

2] Mr.Deshpande, learned counsel appearing on behalf of Respondent No.2 undertakes to file Vakalatnama on record within a period of one week. Undertaking accepted.

3] Leave to amend Writ Petition No.5024 of 2015 for quashing the Criminal Case bearing R.C.C. No. 305 of 2016 pending on the file of Judicial Magistrate First Class, Cantonment Court, Pune. Necessary amendment shall be carried out forthwith.

4] Both the petitions arise out of registration of First Investigation Report (FIR) bearing C.R. No. 157 of 2015 registered with Mundhwa Police Station, Pune at the instance of Respondent No.2 for the offence punishable under Section 498(A), 323, 504, 506 read with 34 of the Indian Penal Code.

5] The Petitioner in Writ Petition No.5024 of 2015 is the sister-in-law of Respondent No.2 and the Petitioners in Writ Petition No.4397 of 2017 are the husband and mother in-law of Respondent No.2. The marriage between Respondent No.2 and Petitioner No.1 in Writ Petition No.4397 of 2017 was solemnized on 30th November, 2014 at Allahabad. In view of the matrimonial dispute between the parties,

Civil as well as Criminal cases came to be filed. The subject FIR is one of them. This FIR is investigated and subsequently Charge-sheet is also filed. Writ Petition No.5024 of 2015 is filed to quash the proceedings of the Criminal Case bearing R.C.C. No.305 of 2016 pending on the file of Judicial Magistrate First Class, Cantonment Court, Pune.

6] During the *pendency* of Writ Petition No.5024 of 2015, the parties settled their dispute amicably. Thereafter, the fresh petition bearing Writ Petition No.4397 of 2017 is filed by husband and mother in-law to quash the proceedings of the said Criminal Case by consent.

7] During the pendency of Writ Petition No.5024 of 2015, the parties settled their dispute amicably and filed consent terms in Marriage Petition No.39 of 2017 pending before the Principal Judge, Family Court, Allahabad and in pursuant thereof fresh petition bearing Writ Petition No.4397 of 2017 filed by the husband and mother in-law to quash the proceedings of the subject Criminal Case on merits.

8] In the light of these development, the Petitioner in Writ Petition No.5024 of 2015 has filed an affidavit dated 2nd November,

2017, withdrawing all the allegations against Respondent No.2-complainant. The same is taken on record.

9] Respondent No.2, accordingly, has filed separate affidavit dated 2nd November, 2017. The same is taken on record. In paragraph (4), she has stated that the dispute is settled amicably and continuation of the Criminal proceedings may not be necessary in the interest of parties and therefore, prayed to quash and set-aside the subject Criminal proceedings.

10] Respondent No.2 is personally present in the Court. On being questioned, she specifically stated that she has gone through both the petitions and affidavits and has fully understood the contents thereof. She further confirmed that she has given no objection for quashing the subject FIR out of free will and without there being any pressure or coercion.

11] 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.”

12] Accordingly, the present petitions are allowed in terms of prayer clause (a). The C.R.No. 157 of 2015 registered with the Mundhwa Police Station, District Pune along with Criminal Case bearing R.C.C. No.305 of 2016 pending on the file of Judicial Magistrate First Class, Cantonment Court, Pune is hereby quashed and set-aside.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]