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

CRIMINAL APPLICATION NO.1100 OF 2017

Heber David and ors ... Applicants

V/s.

State of Maharashtra and anr ... Respondents

Mr. Apporv Shrivastav i/by Kushal More, for
the Applicants.

Mrs. A. S. Pai, APP for the Respondent State.

Ms. Nikita Bhavsar, for respondent No.2.

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

DATE : 20th NOVEMBER, 2017.

P.C. :

- 1] Heard learned counsel for the respective parties.
- 2] Application is filed for quashing and setting aside the proceeding of Criminal Case No.2952/PW/2015, pending on the file of Metropolitan Magistrate, 22nd Court, Andheri. The said case arises out of F.I.R. No.287 of 2015, registered with Sahar Police Station, Mumbai, at the instance of respondent No.2, for the offence punishable under Sections 498(A), 406, 420 read with 34 of the Indian Penal Code.

3] Applicant No.1 is the husband of respondent No.1. Rest of the applicants are the relatives of the applicants. In view of the matrimonial dispute between the parties, Civil as well as Criminal Cases came to be filed. The subject crime is one of them.

4] Pending trial, parties, however, have settled the dispute amicably and accordingly filed Consent Terms for divorce before the Judge Mediator Mrs. P.F. Sayyad (C.R.5), in Petition No.A.1909 of 2015, copy of which is annexed with this petition at page No.97.

5] In terms of above referred settlement, parties now approached this Court for quashing the proceeding in subject crime by consent. Respondent No.2 accordingly filed affidavit dated 20th November, 2017. In paragraph Nos. 5 and 6, she has given no objection to quash the proceeding of subject crime. Respondent No.2 is personally present before this Court.

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 XXXA 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.”

7] Accordingly, the present application is allowed in terms of prayer clause (a). The proceeding of Criminal Case No.2952/PW/2015, pending on the file of Metropolitan Magistrate, 22nd Court, Andheri, is hereby quashed and set aside.

8] Application is disposed of in above terms.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]