

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION No. 1144 OF 2017**

Senthil D. Nadar and Others.

..Applicants.

**Versus**

State of Maharashtra & Another.

..Respondents.

Mr. Prashant Badole for the Applicants.

Mr. S. R. Deuskar for Respondent No. 2.

Mr. V. B. Konde-Deshmukh, APP for the State.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **November 30, 2017.**

**P. C. :**

1. Heard learned Counsel for the Applicants, learned APP for the State and learned Counsel for Respondent No.2. This application under section 482 of the Code of Criminal Procedure, 1973, is filed for quashing and setting aside the proceedings of criminal case bearing CC. No.810/PW/2017 pending on the file of learned Metropolitan Magistrate, 59<sup>th</sup> Court, Kurla, Mumbai. The said case arises out of registration of FIR bearing CR. No. 9/2017 registered with Vinoba Bhave Nagar Police Station, Mumbai at the instance of Respondent No.2 for the offence punishable under sections 498A and 406 read with 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Applicant No.1 and Respondent No.2 are the husband

and wife. Applicant Nos.2 and 3 are the relatives of Applicant No. 1. Matrimonial disputes between the parties gave rise to the filing of several civil and criminal proceedings by the parties against each other and the subject criminal case is one of them.

3. The learned Counsel appearing for the respective parties submitted that pending trial of the above criminal case, parties settled their disputes amicably and in terms of the understanding arrived at between them, filed consent terms in MJ Petition No. F-1303 of 2017 before the Family Court at Bandra, Mumbai. Copy of the said consent terms is annexed at page 38 of this application. They submitted that in pursuance of the understanding arrived at between the parties, they have approached this Court for quashing the subject criminal case by consent. Respondent No. 2 has accordingly filed affidavit dated 10<sup>th</sup> November 2017. In paragraph 2, she has given no objection to quash the proceedings of subject criminal case.

4. 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 Applicants.

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, application is allowed in terms of prayer clause (b).

**[Dr. Shalini Phansalkar-Joshi, J.]**

**[RANJIT MORE, J.]**