

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1200 OF 2017

Sayma Mohd. Masood Siddiq. ..Applicant.

Versus

State of Maharashtra & Others. ..Respondents.

Ms. Bimala P. Chounal for the Applicant.

Mr. S. D. Shinde, APP for the State.

Mr. N. K. Sharma for Respondent No. 2.

Coram : RANJIT MORE &
SANDEEP K. SHINDE, JJ.

Date : **December 8, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. The Complainant herself has approached this Court invoking the jurisdiction of this Court under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of criminal case bearing CC. No. 3704/PW/2015 pending on the file of learned Metropolitan Magistrate, 71st Court, Bandra, Mumbai. The said case is an outcome of FIR bearing CR. No. 281 of 2014 registered with Vakola Police Station at the instance of the Applicant for the offence punishable under section 498A, 323, 504, 406 read with 34 of the Indian Penal Code, 1860.

2. The Applicant and Respondent No. 2 got married in the year 2012. Respondent Nos. 3 and 4 are the relatives of Respondent

No. 2. The matrimonial disputes between the parties gave rise to the filing of several civil as well as criminal proceedings and the subject matter of this application is one of them.

3 The learned Counsel appearing for the respective parties submitted that pending trial of the above case, parties have amicably settled their disputes and entered into consent terms, which are reduced into writing. Those consent terms are annexed at Exhibit-A to the present application. Consent terms are signed by the Applicant and Respondent No. 2 along with their respective advocates. The learned Counsel submitted that in terms of the understanding arrived at between the parties, the present application is filed by the Complainant to quash the proceedings of the subject criminal case.

4. The instant application is affirmed by the Complainant – the Applicant herein, wherein she has prayed to quash the subject criminal case. The Applicant is present before this Court. On specific query made by us, she submitted that she has filed the present application voluntarily and there is no pressure or undue influence on her. She stated that dispute between herself and the Respondents is settled and therefore she does not want to proceed with the subject criminal case. She re-iterated that she has no objection to quash the subject criminal proceedings initiated at her instance against

Respondent Nos. 2 to 4.

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

[SANDEEP K. SHINDE, J.]

[RANJIT MORE, J.]