

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.932 OF 2018

Karan Somnath Sawhney & ors	.. Petitioners
Versus	
The State of Maharashtra & ors	.. Respondents

...

None for the petitioners.
Ms.P.P. Shinde, APP for the State.
Ms.Pooja Joshi for respondent no.2.
Ms.Swati Sawhney (Bhakri) is present.

CORAM: SMT. BHARATI H.DANGRE, J

DATED : 4th SEPTEMBER, 2018

P.C:-

1 The present petition is filed by the petitioner who is the husband and the petitioner nos.2 to 5 are relatives of the petitioner. The respondent no.2 is the wife and the marriage between petitioner no.1 and respondent no.2 was solemnized on 14th February 2014. On account of marital discord, several proceedings came to be instituted by the parties. However, by an order passed by this Court on 12th September 2017, the

Court recorded that the Divorce Petition filed between the parties would be converted into a petition by mutual consent. Another term of settlement was that the husband would pay an amount of Rs.Two lakhs to the respondent no.2 wife by way of demand drafts. It was also agreed that the parties would appear before the Family Court at Bandra to convert the said Divorce Petition into a petition for Divorce by mutual consent. It was also agreed that the respondent-husband would file a petition seeking quashment of proceedings filed by wife under section 498A of the Indian Penal Code, wherein she would give her consent and support the application. It was ultimately agreed that all the allegations made by the parties against each other would stand withdrawn.

Accordingly, the present writ petition has been instituted by the petitioner and his family members praying for quashing of the charge under Section 498A r/w Section 34 pending before the Court of the JMFC, Vasai, Thane.

2 Today, none appears for the petitioner. However, the respondent no.2 Mrs.Swati Karan Sawhney is present. She

has also filed an affidavit before this Court stating that she has received an amount of Rs.20 lakhs by way of demand drafts and she has encashed the said amounts. She has also stated that all the terms and conditions as mentioned in the consent terms have been abided by the parties and a categorical statement is made that she has no objection for quashing of the proceedings instituted against the petitioner and his relatives. In terms of the said affidavit and in light of the position of law as set out by the Hon'ble Apex Court in case of ***B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386]*** where it is 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."

For the reasons recorded above and in light of the judgment of the Hon'ble Apex Court, the proceedings pending on the file of the JMFC, 2nd Court, Vasai, Thane, vide RCC No.1115 of 2017 are quashed by consent of the parties.

Writ Petition is allowed in terms of prayer clause (b).

(SMT. BHARATI H. DANGRE, J.)

Manali
Prasanna
Tilak

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