IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 323 OF 2018

Tejas Suresh Patani and Others. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Pramod Pandey for the Applicants.
Mr. Deepak Thakare, PP for the Respondent-State.
Ms. Jennifer Michael I/b Alisha Pinto for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : October 29, 2018.

P. C. :

1. Heard the learned counsel appearing for the Applicants, the learned counsel for Respondent No.2 and learned PP for the Respondent-State.

2. By this application filed under section 482 of the Code of Criminal Procedure, 1908, the Applicants are seeking to quash and set aside the FIR bearing CR. No. 34 of 2017 registered with Santacruz Police Station, Mumbai for the offence punishable under sections 498A, 406, 504, 506, 34 and 323 of the Indian Penal Code, 1860.

3. Applicant No.1 and Respondent No.2 got married on 1st February 2015. Rest of the Applicants are the relations of Applicant No. 1. The matrimonial discord between the parties gave rise to filing

of civil as well as criminal proceedings against each other and the present FIR is one of them.

4. The learned Counsel appearing for the respective parties submitted that pending investigation into above FIR, the parties have amicably settled their disputes and filed memorandum of settlement before the Sessions Court for Greater Mumbai at Mumbai in Anticipatory Bail Application No.1194 of 2017 [copy of which is annexed at page No. 43 of the present application]. Counsel for both sides made a statement across the bar that the terms of memorandum of settlement are complied with; the marriage between Applicant No.1 and Respondent No.2 is accordingly dissolved by grant of decree of divorce by the Family Court at Bandra, Mumbai vide its judgment and order dated 6th April 2018 in Petition No.F-2456 of 2017. Cousnel further submitted that in terms of the understanding arrived at between the parties, now they have approached this Court for quashing the subject FIR by consent.

5. Accordingly, Respondent No. 2 has filed an affidavit in this Court on 2nd October 2018 wherein in paragraph 4 she has given her no objection to quash the FIR. 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 FIR

initiated by her against the Applicants.

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 XXA of Indian Penal Code.*
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> *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]*.

7. 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 FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

8. 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 FIR. Accordingly, application is allowed in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.] [RANJIT MORE, J.]