

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 705 OF 2018

Viveck Nayyan Parekh and Others.

..Applicants.

Versus

Mikita Viveck Parekh & Another.

..Respondents.

Mr. V. R. Sutaria for the Applicants.

Mr. Ashok Bhate for Respondent No. 1.

Mr. S. R. Shinde, APP for the Respondent-State.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **September 21, 2018.**

P. C. :

1. Heard the learned counsel for the Applicant, the learned counsel for Respondent No.1 and learned APP for the Respondent-State. By the present application, the jurisdiction of this Court under section 482 of the Code of Criminal Procedure, 1908 is invoked by the Applicants, seeking to quash and set aside the proceedings of criminal case bearing CC No.1063/PW/2016 pending on the file of learned JMFC, Vashi, CBD Belapur, Navi Mumbai. The said case has arisen from an FIR bearing CR No. 216 of 2016 registered with Vashi Police Station at the instance of Respondent No.1 herein, wherein the allegations are that the Applicants have committed an offence punishable under sections 323, 406, 498A and 504 of the Indian Penal Code, 1860.

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

and wife. Rest of the Applicants are relatives of Applicant No. 1 and in-laws of Respondent No. 1. The matrimonial discord between the parties gave rise to the filing of various proceedings by the parties against one another and the present proceeding is one of them.

3. the learned counsel for the respective parties submitted that during the pendency of above criminal proceeding, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the present application is filed for quashing the above criminal proceedings, by consent of Respondent No. 1. they submitted that accordingly parties have filed consent terms before the Family Court at Thane in Marriage Petition No. 460 of 2018. Copy of the consent terms is placed on record at Exhibit-"B" page no .19 to the petition. Under the consent the consent terms, the parties have agreed to dissolve their marriage by mutual consent resorting to the provisions of section 13-B of the Hindu Marriage Act, 1955. Applicant No. 1 has agreed to pay an amount of Rs.30 lakhs to Respondent No. 1 towards the full and final settlement of all her dues. The statement is made at the bar that this amount is already paid to Respondent No. 1 by Applicant No. 1.

4. Respondent No. 1 has accordingly filed an affidavit dated 20th September 2018. In paragraph 6 of the said affidavit, she

has given no objection to quash the subject criminal proceedings against the Applicants.

5. Respondent No.1 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. She also submitted that she has received an amount of Rs.30 lakhs from Applicant No. 1 as the marriage between them is agreed to be dissolved by mutual consent.

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.

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 criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

8. In the light of 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. Application is, therefore, allowed in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]