

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4239 OF 2018

Mr.Anand S/o. Basant Mishra .. Petitioner
Vs.
The State of Maharashtra & Anr. .. Respondents

Mr.A.M. Sarogi for petitioner.

Mrs.A.S. Pai, APP for State.

Mr.Sushil Upadhyay for respondent No.2.

Mrs.Priti Anand Mishra-respondent No.2 is present in Court.

**CORAM : RANJIT MORE &
BHARATI HARISH DANGRE, JJ.
DATE : 12TH OCTOBER 2018**

P.C.

1 Heard the learned counsel for the petitioner, respondent No.2 and the learned APP.

2 Petition is filed seeking quashing and setting aside the FIR bearing C.R.No.393 of 2017 registered with Nigadi Police Station, Dist. Pune at the instance of respondent No.2 for the offences punishable under Section 498A, 313 read with Section 34 of the Indian Penal Code. The petitioner and respondent No.2 are husband and wife. Matrimonial disputes arose between the parties which lead to the filing of civil and as well as criminal proceedings and the subject matter of the present petition is one of them.

3 The learned counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, parties have amicably settled their matrimonial disputes and filed consent terms before the Family Court at Bandra, Mumbai in Divorce Petition No.1368 of 2016.

4 In view of the consent terms filed in Divorce Petition No.1368 of 2016, parties have started staying together. Respondent No.2 has filed an affidavit affirmed on 12th October 2018. In paragraph No.3 of the said affidavit, she has stated that she has no objection if the FIR bearing No.393 of 2017 registered under the provisions of Section 498A, 313 r/w 34 of IPC is quashed. 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.

5 The Apex Court in *B.S. Joshi Vs. State of Haryana*¹ 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 contained in Paragraphs 14 and 15 of the said judgement and the

1 AIR 2003 SC 1368

same are reproduced hereinbelow :-

“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***².

6 In the light of the above position of laws and in the facts and circumstances of the present case, we are inclined to quash the subject FIR. The Writ Petition is allowed in terms of prayer clause (a) and accordingly disposed.

(SMT.BHARATI H.DANGRE, J.)

(RANJIT MORE, J.)

2 2008(5) LJ.Soft 461