

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4570 OF 2018

Nirav S. Parikh and Another. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Devika Deshmukh I/b D. S. Joshi for the Petitioners.

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

Ms. Rimpal Trivedi for Respondent No. 2.

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

Date : **October 25, 2018.**

P. C. :

1. Heard the learned counsel appearing for the respective parties. By this petition filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1908, the Petitioners are seeking to quash and set aside an FIR bearing CR. No. 459 of 2016 registered with L. T. Marg Police Station, Mumbai for the offence punishable under section 498A of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No. 2 herein.

2. Petitioner No. 1 and Respondent No. 1 are the husband and wife. The Petitioner No. 2 is the father of Petitioner No. 1. The matrimonial discord between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against each other and

the present FIR is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation of above FIR, 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, present petition is filed for quashing the above FIR, by consent of Respondent No.2. They also drew our attention to the consent terms entered into by the parties and filed before the Family Court at Bandra, Mumbai in Petition No. A-120 of 2017, which is annexed at Exhibit-B to the petition.

4. Respondent No. 2 has filed an affidavit dated 25th October 2018. In paragraph 8 of the said affidavit, she has accorded her unequivocal consent to quash the subject FIR against the Petitioners.

5. 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 against Petitioners.

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 FIR alive 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 FIR. Accordingly, petition is allowed in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]