

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 1243 OF 2018**

Gaurav Nikhil Pandarkandy and Others ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Prashant Badale for the Applicants.

Mrs. P. P. Shinde, APP for the Respondent-State.

Mr. K. A. Bhatia 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 respective parties. This application is filed for quashing and setting aside the FIR bearing CR. No. 299 of 2017 registered with Meghwadi Police Station at the instance of Respondent No.2 for offence punishable under sections 498A, 406, 323, 506, 504 and 507 read with 34 of the Indian Penal Code, 1860.

2. Applicant No. 1 and Respondent No. 2 are the husband and wife. Rest of the Applicants are the relations of Applicant No. 1. The matrimonial dispute between the parties gave rise to filing of civil as well as criminal proceedings by the parties against one another and

the present FIR is one of them. Pending investigation into above FIR, with the help and intervention of the family friends and relatives parites settled their disputes amicably and filed consent terms before the Family Court at Bandra, Mumbai in Petition No. A-61 of 2018, copy of which is annexed at Exhibit-A to t he application. In terms of the settlement arrived at between the parties, they have approached this Court for quashng the subject FIR by consent.

3. Respondent No. 2 has accordingly filed an affidavit dated 24<sup>th</sup> October 2018 wherein in paragraph 4 she has given her no objection for quashing the subject FIR against the Applicants in view of the settlement.

4. The Apex Court in B. S. Joshi vs. State of Haryana [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].

5. 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.

6. 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 (b).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]