

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1166 OF 2017

Vikas Suryanath Yadav and Others. ..Applicants.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. Prakash Mishra I/b Sandeep Mishra for the Applicants

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

Mr. A. A. Purohit for Respondent No. 3.

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

Date : **August 21, 2018.**

P. C. :

1. Heard the learned counsel for the Applicant, the learned counsel for Respondent No.2 and learned APP for the Respondent-State.

2. This Application is filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1908 seeking to quash and set aside FIR bearing No.461 of 2017 registered with Dahisar Police Station, Mumbai against the Applicants at the instance of Respondent No.3 for the offence punishable under sections 498A, 406, 354A(2), 377, 354, 323, 324, 506 and 504 read with 34 of the Indian Penal Code, 1860.

3. Applicant No. 1 and Respondent No. 3 got married on 3rd December 2011. Rest of the applicants are the in-laws of Respondent

No.3. Unfortunate marital disputes between the parties gave rise to filing of several complaints including the present one as well as the complaint under the provisions of Protection of Women from Domestic Violence Act, 2005. Applicant No.1 has filed divorce petition in the Family Court at Bandra against Respondent No. 3.

4. 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, the parties have amicably settled their differences by way of mutual settlement and in pursuance of the understanding arrived at between them present application is filed for quashing the above FIR by consent of Respondent No. 3, who happens to be the complainant in said FIR.

5. In this Court, Respondent No.3 has filed an affidavit dated 21st August 2018. In paragraph 4 of the said affidavit, she has stated that she has decided to withdraw the proceedings filed by her against the Applicants, bearing Complaint No. 324/DV/2017 under section 12 of the Protection of Women From Domestic Violence Act, 2005. It is further stated that Applicant No. 1 has assured her that he will co-operate in converting the petition being Divorce Petition No. A-845 of 2016 filed under section 13(1)(i-a) into petition for divorce by mutual consent. The learned counsel for the Applicant having taken

instructions from his client, who is present in the Court, makes a statement that divorce petition filed by her would be converted into a petition for divorce by mutual consent. The learned counsel for the Applicant, on instructions, makes a statement that Applicant No.1 by way of settlement has paid an amount of Rs.31 lakh to Respondent No.3. The learned counsel for Respondent No.3 on instructions of his client who is present in the Court states that his client has received an amount of Rs.31 lakh from Applicant No. 1 as full and final settlement of all her claims.

6. Respondent No.3 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 filed by her against the Applicants.

7. 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].

8. 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.

9. In the light of 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 subject FIR. Accordingly, application is allowed in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]