

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

CRIMINAL APPLICATION NO. 4 OF 2019

Satyawan K. Gaikwad
and Ors.

...Petitioners

Vs.

Mrs. Shital S. Gaikwad
And Ors.

...Respondents

Mr. S.P. Borhade for the Applicant.
Ms. S.D. Shinde, APP for Respondent – State.
Ms. K. Shilpa Singh for Respondent No. 1.

**CORAM : SHRI. RANJIT MORE &
SMT. BHARATI H. DANGRE,JJ.**

DATE : 25th JUNE 2019

P.C.:

1. Heard learned Counsel for the Applicant, Learned counsel for the Respondent No. 1 and Learned APP for Respondent - State. Application is filed for quashing and setting aside the FIR bearing CR no. 207/2017 registered with Sakinaka Police Station, Mumbai for an offence punishable under Sections 498-A, 323, 406 read with Section 34 of the Indian Penal Code at the instance of Respondent No. 2.

2. The Petitioner No. 1 and Respondent No. 1 are husband wife. Rest of the applicants are relatives of Petitioner No. 1 and in laws of Respondent No. 1. Matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one

another and The subject matter of present application is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation and 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 application is filed for quashing the above FIR by consent of Respondent No. 1.

4. Respondent No. 1 has filed an affidavit dated 02.05.2019 In paragraph Nos. 4 and 5 of the said affidavit, Respondent No.1 has stated that she has no objection to quash and set aside the subject FIR.

5. Respondent No. 1 is personally present before the Court. On specific query made by us, Respondent No. 1 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 initiated by her against the Applicants.

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 498-A 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.”

7. Resultantly we quash and set aside the FIR bearing CR no. 207/2017 registered with Sakinaka Police Station, Mumbai for an offence punishable under Sections 498-A, 323, 406 read with Section 34 of the Indian Penal Code.

8. Accordingly, Criminal Application is allowed in terms of prayer **clause '(a)'**.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J)