

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 139 OF 2019

Aarti Ramesh Kochrekar and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Ameya Lambhate for the Petitioner.

Mr. A.D. Kamkhedkar, APP for the Respondent-State.

Mr. Amrut Joshi i/b Kartik Khandewal for Respondent No. 2.

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

Date : **June 17, 2019.**

P. C. :

1. Heard the learned counsel appearing on behalf of the Petitioner, the learned counsel for Respondent No.2 and the learned APP for the Respondent-State.

2. The petition is filed seeking to quash and set aside the FIR bearing CR.No.I-157 of 2017 registered with Kopari Police Station, Thane at the instance of Respondent No.2 for the offence punishable under sections 323 and 354 of the Indian Penal Code, 1860. Petitioner no.3 and Respondent No.2 are the husband and wife. Rest of the Petitioners are the relations of Petitioner No.3

3. The learned counsel appearing on behalf of the respective parties submitted that pending investigation into above FIR, with the help and intervention of elders, relatives and well wishers the parties have settled the disputes and have accordingly filed consent terms before the Family Court at Bandra, Mumbai in

Petition No.A-452 of 2018. Copy of the consent terms is placed on record at Exhibit-D to the petition. The learned counsel submitted that in the light of settlement, the parties have now approached this Court for quashing the above FIR by consent of Respondent No. 2.

4. Before this Court, Respondent No.2 has filed an affidavit dated 7th January 2019 wherein in paragraphs 6 and 7 she has given her no objection to quash the proceedings of the subject FIR against the Petitioners. 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 initiated by her against the Petitioners.

5. 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].

6. 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.

7. 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, petition is made absolute in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]