

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

CRIMINAL WRIT PETITION NO. 490 OF 2017

Surendra Navnath Kshirsagar
and Ors.

...Petitioners

Vs.

The State of Maharashtra
And Ors.

...Respondents

Mr. S.A. Sawant I/by Amit G. Kasbe for the Petitioners.

Ms. S.D. Shinde, APP for Respondent – State.

Mr. Ramesh B. Jadhav for Respondent No. 2.

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

DATE : 25th JUNE 2019

P.C.:

1. Heard learned counsel for the petitioners, Respondent No. 2 and APP for the Respondent – State. Mr. Sawant learned counsel for the petitioners at the outset seeks leave to amend prayer clause so as to give particulars of the criminal case. Since petition is at the stage of admission, we grant liberty. Amendment be carried out forthwith.

2. Petition is filed for quashing and setting aside the proceedings of FIR bearing MECR no. 6/2016 registered with Chirag Nagar Police Station, Ghatkopar for an offence punishable under

Sections 498-A, 406, 323, 354, 504, 506(ii) r/w 34 of the Indian Penal Code at the instance of Respondent No. 2.

3. Petitioner no. 1 and Respondent No. 2 are husband and wife. Rest of the petitioners are relatives of petitioner No. 1 and in laws of Respondent No. 2. Matrimonial dispute give rise to file civil as well as criminal proceedings and the said subject FIR is one of them.

4. 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 consent terms filed in Misc. Application No. 294/2018 in Sessions Court for Grater Mumbai. The parties have also filed separate consent terms dated 02.05.2019. The consent terms are signed by the Petitioner No. 1 and Respondent No. 2 along with their respective counsels, the consent terms are taken on record. Pursuant to the understanding arrived at between them, present petition is filed for quashing the above FIR by consent of Respondent No. 2.

5. Respondent No. 2 has also filed an separate affidavit

dated 28.02.2019 wherein Respondent No. 2 has given no objection to quash and set aside the subject FIR.

6. Petitioner No. 1 and Respondent No. 2 are personally present before the Court. On specific query made by us, Respondent No. 2 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.

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 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.”

8. Resultantly we quash and set aside the FIR bearing MECR no. 6/2016 registered with Chirag Nagar Police Station, Ghatkopar for an offence punishable under Sections 498-A, 406, 323, 354, 504, 506(ii) r/w 34 of the Indian Penal Code.

9. Accordingly, Writ Petition is allowed in terms of prayer clause '(a)'.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J)