

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICITON

WRIT PETITION NO. 648 OF 2018

A. Ramalingam Ramesh. . ..Petitioner.
Versus
State of Maharashtra & Another. ..Respondents.

Mr. Mohd Saeed Asgar Moghul for the Petitioner.
Mr. S. R. Shinde, APP for the Respondent-State.
Ms. Nibha S. Jah for Respondent No. 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **April 15, 2019.**

P. C. :

1. Heard. The jurisdiction of this Court under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, 1973, is invoked by the present petition seeking to quash and set aside the proceedings of criminal case bearing CC No.2689/SW/2013 pending on the file of learned Metropolitan Magistrate, 24th Court , Borivali, Mumbai. An FIR bearing CR No.8 of 2013 registered with Charkop Police Station Mumbai at the instance of Respondent No.2 for the offence punishable under sections 494 and 498A of the IPC has given rise to the said proceeding.

2. The Petitioner and Respondent No.2 are husband and wife. The matrimonial disputes between the parties gave rise to filing of several civil as well as criminal proceedings by the parties against

one another and the instant proceeding is one of them. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, 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 pursuant to the understanding arrived at between them, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No.2. They submitted that parties have already filed consent terms before the learned Magistrate.

3. Respondent No.2 has filed an affidavit dated 5th April 2019, in which she has given her no objection to quash the subject criminal proceeding against the Petitioner. 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 criminal proceedings initiated by her against the Petitioner.

4. 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].

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 criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

6. 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 the subject criminal proceedings. Accordingly, the petition is allowed in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]