

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICITON

CRIMINAL APPLICATION NO. 190 OF 2019

Sunny Lacchmandas Motiani and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. J. R. Konar for the Petitioners.

Ms. Vandana Joshi I/b Vivek Joshi for Respondent No. 2.

Mr. Deeptak Thakare, PP for the Respondent-State.

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

Date : March 25, 2019.

P. C. :

1. Heard the learned counsel for the respective parties.

The application is filed for quashing and setting aside the proceedings of criminal case bearing RCC No. 804 of 2016 pending on the file of JMFC Thane. The said case has arisen from the registration of FIR bearing CR No.I-204 of 2015 with Kasarwadwali Police Station, Thane. The said FIR was registered at the instance of Respondent No.2 on the allegation of commission of offence punishable under sections 498A, 406 and 506 read with 34 of the Indian Penal Code, 1860.

2. Applicant No. 1 and Respondent No. 2 are the husband and wife. Rest of the Applicants are the relations of Applicant No. 1

and in-laws of Respondent No.2. The 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 criminal case is one of them.

3. 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 application is filed for quashing the above criminal proceedings, by consent of Respondent No.2. They further submitted that consent terms have been filed by the parties before the Family Court at Thane in Marriage Petition No.A-305 of 2015, a copy of which is also placed on the record of this application at Exhibit-C. Applicant No.1 submitted that terms of the said consent terms have been duly complied with.

4. Respondent No.2 has accordingly filed an affidavit dated 16th March 2019. In paragraph 6 and 7, she has stated that dispute between the Applicant and herself has been resolved amicably and

therefore she is giving consent to quash the proceedings of the subject criminal case.

5. 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 /criminal proceedings 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 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].

7. 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. 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 criminal proceedings. **Accordingly, application is allowed in terms of prayer clause (a).**

8. It was submitted across the bar that Applicant No.1 has deposited his passport with Kasarwadawali Police Station, Thane as a condition of bail order passed in the subject CR/ criminal proceedings. The learned counsel for the Applicants submitted that a direction may be given to the concerned Police Station for return of the said passport to Applicant No.1. Since we have quashed the proceedings of subject criminal case, police need not keep the passport of Applicant No.1. In this regard, Applicant No.1 shall make an application to the concerned Police Station within the period of two weeks from today. Upon such application being made, police shall return to Applicant No.1 his passport within the period of two weeks of application.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]