

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.241 OF 2019

Dharam Deepak Dayaramani .. Applicant
Versus
State of Maharashtra & Anr. .. Respondents

Mr. Shivansinh Deshmukh I/b. Aarti Deshmukh for applicant
Ms. S.D.Shinde, APP for State
Mr. Siddharth Jaiswal I/b. A.Z.Memon for respondent No.2.

CORAM : RANJIT MORE &
SMT. BHARATI HARISH DANGARE, JJ.

DATE : 9th APRIL 2019.

P.C.

Heard learned Counsel for the applicant, learned Counsel for respondent No.2 and learned APP for State. The application is filed for quashing and setting aside the F.I.R. being C.R.No.404 of 2018 registered with Oshiwara police station at the instance of respondent No.2 for offences punishable under section 498-A, 406, 323, 504 and 506 of I.P.C.

2] Petitioner and respondent No.2 are husband and wife respectively. Matrimonial disputes gave rise to the civil and criminal

proceedings, the present one being one of them. With the help of elders in the family and friends, both the parties have decided to settle the disputes and accordingly filed consent terms in Petition No.A-1837 of 2018 filed in Family Court, a copy of which is at Exh."C". In terms of the understanding arrived at between the parties, now they have approached this Court for quashing the subject F.I.R.. by consent.

3] Respondent No.2 has accordingly filed an affidavit dated 20th February 20119. In para 4 thereof, she has stated that she does not wish to prosecute the present F.I.R.

4] The respondent No.2 is present in court. Upon a specific query she informs that she has settled the dispute and has no objection for quashing of subject F.I.R.

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 against the Applicant.

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.”

7] 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].

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

9] 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.

10] Accordingly, the application is allowed in terms of prayer clause (a).

(SMT. BHARATI H. DANGRE, J)

(RANJIT MORE, J)