

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI.WRIT PETITION NO.1067 OF 2019

Salman Imam Shaikh &
Mrs. Chandbi Imam Shaikh
Versus

.. Petitioners

State of Maharashtra and
Mrs. Farheen Shaikh

.. Respondents

Mr. Sunil Shukla for petitioners
Ms. S.D.Shinde, APP for State
Mr. Hemant Shukla for respondent No.2.

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

DATE : 9th APRIL 2019.

P.C.

Heard the learned Counsel for petitioner, respondent No.2 and learned APP for State. The petition is filed for quashing and setting aside the FIR bearing C.R.No.278 of 2018 registered with Goregaon police station at the instance of respondent No.2 for offences punishable under section 498A, 323, 324, 504 and 506 read with 34 of IPC.

2] Petitioner No.1 and respondent No.2 are husband and

wife. Petitioner No.2 is mother of petitioner No.1 and mother in law of respondent No.2. Matrimonial disputes between the parties gave rise to civil and criminal proceedings, the present being one of them. The parties have now however, amicably settled their disputes.

3] In pursuance of the understanding arrived at, the parties have filed consent terms in this court. The same are taken on record and marked "X" for identification.

4] In pursuance of the consent terms, the respondent No.2 has given no objection to quash and set aside the F.I.R. and has filed an affidavit to that effect dated 9th April 2019. In para 5 of the same, she has given no objection to quash and set aside the 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 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.”

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 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 writ petition is allowed in terms of prayer clause (a).

(SMT. BHARATI H. DANGRE, J)

(RANJIT MORE, J)