

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 270 OF 2019

Monica Shravan Kappor. ..Applicant.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Racheeta R. Dhuru for the Applicant.
Mr. F. R. Shaikh, APP for the Respondent-State.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **June 17, 2019.**

P. C. :

1. The complainant herself has approached this Court invoking the jurisdiction of this Court under section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings of criminal case bearing No.548 of 2015 pending on the file of JMFC, Vasai.
2. The said case has arisen from an FIR bearing CR No.312 of 2012 registered with Nalasopara Police Station at the instance of Applicant herein. Respondent Nos.2 to 5 herein are arraigned as accused in the said FIR alleging commission of offence punishable under sections 454, 457, 380, 427 read with 34 of the Indian Penal Code, 1860. The Applicant and Respondent No.2 are the ex-wife and husband respectively.

Respondent Nos.3, 4 and 5 are the relations of Respondent No.

2. The matrimonial discord between the couple, gave rise to filing of several civil and criminal proceedings against each other and the subject proceeding is one of them.

3. Learned counsel for the Applicant submitted that with the intervention of friends, relatives and well wishers the parties have settled their disputes amicably and have accordingly filed consent terms before the learned Metropolitan Magistrate, Railway Court at Andheri, Mumbai in CC No. DV/52/2012. Under clause (5) of the said consent terms, the Applicant has undertaken to withdraw the criminal cases launched by her against the Respondents herein and in pursuance of this understanding, the Applicant has approached this Court for quashing the subject criminal case.

4. Be that as it may, today the Applicant is present in the Court. On a query made by us, she submitted that marriage between herself and Respondent No.2 is dissolved by a decree of divorce granted by competent Court and all the disputes between herself and the Respondents are settled. Today also she prayed for quashing the subject criminal case against the Respondents.

5. 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].

6. 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.

7. 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 (b).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]