

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1307 OF 2018

Rajendra Jagnnath Bhalekar and Another. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Shruti Kelji for the Petitioner.

Mr. A. D. Kamkhedkar, APP for the Respondent-State.

Mr. Sachin Kanse i/b PRS Legal for Respondent No. 2.

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

Date : **June 17, 2019.**

P. C. :

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No.2 and the learned APP for the Respondent-State.
2. The petition is filed invoking the jurisdiction of this Court under Article 226 of Constitution of India and section 482 of the Code of Criminal Procedure, 1973 seeking to quash the proceedings of criminal case bearing CC No.315/PW/2015 pending on the file of the learned Metropolitan Magistrate, 17th Court, Borivali for the offence punishable under sections 498A, 406, 504 and 506 read with 34 of the Indian Penal Code, 1860. The said proceedings is an offshoot of FIR bearing No. 315 of 2015 registered with Samtanagar Police Station at the instance of Respondent No. 2.
3. Petitioner No.1 and Respondent No.2 were married on 20th

January 2008. Petitioner no.2 is the brother of Petitioner No.1. The matrimonial discord between the parties gave rise to the filing of various proceedings and the subject FIR / criminal proceedings is one of them.

4. Learned counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of friends, relatives and well wishers the parties have settled their disputes amicably and have accordingly filed consent terms before the Family Court at Bandra, Mumbai in Petition No.A-2658 of 2015; the petition for divorce was converted into a petition for divorce by mutual consent under section 13-B of the Hindu Marriage Act, 1955 and accordingly the marriage between Petitioner No.1 and Respondent No.2 has been dissolved by decree of divorce dated 27th October 2017. The parties have thereafter approached this Court for quashing the above criminal proceedings by consent of Respondent No.2.

5. Respondent No.2 has accordingly filed an affidavit dated 28th February 2018. In paragraph 7 and 8 she has given her no objection to quash the proceedings of the subject criminal case. 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 Petitioners.

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.

8. 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. In the circumstances, petition is allowed in terms of prayer clause (b)

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]