

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. WRIT PETITION NO.1425 OF 2019

Sandeep Chandrakant Bhambure .. Petitioner
Versus
Mrs. Vishakha Sandeep Bhambure .. Respondent

Mr. H.S.Vyas for petitioner
Mr. R.R.Shaikh, APP for State
Mr. P.G.Sarda for respondent No.2.

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

DATE : 9th APRIL 2019.

P.C.

Mr. Vyas, learned Counsel appearing for petitioner at the outset seeks leave to amend this petition so as to implead parents of petitioner and sister of petitioner as petitioner Nos. 2, 3 and 4. Leave granted. Necessary amendments be carried out forthwith.

2] Heard learned Counsel for petitioner, respondent No.1 and learned APP. Petition is filed for quashing and setting aside the criminal case bearing No.300049 of 2015 pending on the file of

Chief Judicial Magistrate, Thane. The said case arises out of registration of an offence with Rabodi police station, Thane at the instance of respondent No.1, punishable under section 498-A read with section 34 of IPC.

3] The petitioner No.1 and respondent No.1 got married on 3rd January 2000. Rest of the petitioners are relations of petitioner No.1. The matrimonial dispute between the parties gave rise to several civil as well as criminal proceedings the subject criminal case being one of them. Now the parties have resolved their disputes and they have accordingly filed consent terms on the file of Writ Petition No.2289 of 2018, a copy of which is at page 30 of paperbook.

4] In terms of these consent terms the petitioner No.1 and respondent No.1 are separated by virtue of decree of divorce under section 13-B of the Divorce Act, which came to be granted on 3rd April 2019. Now the parties have approached this Court in pursuance of the said consent terms and for quashing of the subject criminal proceedings. Respondent No.1 accordingly has filed an

affidavit dated 9th April 2019. In paragraph 3 she has given no objection to quash the subject criminal proceedings. The respondent No.1 is personally present before this Court. On a specific query, she states that she has gone through the said affidavit and she has no objection to quash the criminal proceedings. It is also stated that she has given no objection out of her own and free will and without being forced.

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 FIR alive /..... 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.

8] Accordingly, Criminal Writ petition is allowed in terms of prayer clause (a).

(SMT. BHARATI H. DANGRE, J)

(RANJIT MORE, J)