

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1469 OF 2016

Kiran Ashok Jadhav and others. ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Nikhil M. Sansare for the Petitioner.
Mr. A. D, Khamkhedkar, APP for the Respondent-State.
Ms. Milan K. Jadhav - Respondent No.2 in-person.

Coram : RANJIT MORE &
N. J. JAMADAR, JJ.
Date : **September 3, 2019.**

P. C. :

1. At the outset, learned counsel for the Petitioner seeks leave to amend the petition so as to give particulars of the criminal proceeding. Leave granted. Necessary amendment be carried out forthwith.

2. Heard learned counsel for the Petitioner and learned APP for the Respondent-State. We have also heard Ms. Milan Jadhav-Respondent No.2, who is appearing in person. The petition is filed for quashing and setting aside the proceedings of criminal case bearing RCC. No.1565 of 2016 pending before the Court of JMFC, Thane. This case has arisen from the FIR bearing CR No.I-295 of 2015 registered with Shil Diagar Police Station, Thane at the instance of Respondent No.2 for the offences

punishable under sections 498A, 406, 323, 504, 506 read with 34 of the Indian Penal Code, 1860.

3. Petitioner No.1 and Respondent No.2 are the husband and wife. Rest of the Petitioners are the relations of Petitioner No.1 and in-laws of Respondent 2. The marital discord between the parties gave rise to the filing of several civil and criminal proceedings against each other and the present proceeding is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the present petition is filed for quashing the above criminal proceedings, by consent of Respondent No. 2.

5. Respondent No.2 has filed an affidavit dated 21st August 2019. In paragraph 4 of the said affidavit, she has given her consent for quashing the subject criminal proceedings against the Petitioner initiated at her instance.

6. Respondent No.2 is personally present before the

Court. She is an advocate by profession. We have verified her identity from the Identity Card issued by the Bar Council of Maharashtra & Goa. On specific query made by us, Respondent No.2 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 criminal proceedings initiated by her against the Petitioners.

7. 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].

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 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 criminal proceedings. In the circumstances, petition is made absolute in terms of prayer clause (a).

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]