

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1749 OF 2015

Dheeraj Bhoiraj Maluknai and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Girish Pawar I/b Ashish Dubey for the Petitioner.

Ms. S. D. Shinde, APP for the Respondent-State.

Mr. A. R. Mourya I/b Globas Juris for Respondent No. 2.

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

Date : **April 24, 2019.**

P. C. :

1. Heard the learned counsel for the Petitioner and the learned counsel for Respondent No.2 and learned APP for the Respondent-State.

2. The petition is filed for quashing and setting aside the proceedings of criminal case bearing No.534/PW/2015 pending on the file of Railway Mobile Court, Andheri, Mumbai. The said case has arisen out of the registration of FIR bearing CR.No.475 of 2013 with Oshiwara Police Station, Mumbai for the offence punishable under sections 498A, 406, 323, 504 and 506(2) 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 relations of Petitioner No.1 and

in-laws of Respondent No.2. Matrimonial disputes between the parties gave rise to filing of several civil as well as criminal proceedings against each other and the subject FIR and criminal case is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present petition is filed for quashing the above criminal proceedings, by consent of Respondent No. 2. Counsel submitted that consent terms are filed by the parties before the Family Court at Banda, Mumbai in Petition No. A-1142 of 2014. Copy of the same is tendered, which is taken on record.

5. Respondent No. 2 has filed an affidavit dated 18th March 2019. In paragraph 3 and 6 of the said affidavit, she has given no objection to quash the proceedings of the subject criminal case against the Petitioners. 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 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. Accordingly, petition is made absolute in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]