

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION {ST} NO. 2822 OF 2019

Avesh Ashok Grover
and Ors.

...Petitioners

Vs.

The State of Maharashtra
And Ors.

...Respondents

Mr. Ramesh Tripathi for the Petitioner.
Adv. Ameet Mehta, Adv. Avani Rathod I/by. M/s. Solicis Lex for the
Respondent No. 3.
Mr. A.D. Kamkhedkar, APP for Respondent – State.

**CORAM : SHRI. RANJIT MORE &
SMT. BHARATI H. DANGRE,JJ.**

DATE : 25th JUNE 2019

P.C.:

1. Heard learned counsel for the petitioner, Respondent No. 3 and learned APP for the Respondent - State. Petition is filed for quashing and setting aside the Criminal Case bearing RCC No. 1016/2017 in FIR No. I-27/2017 registered with Vashi Police Station, Navi Mumbai at the instance of Respondent No. 3 for an offence punishable under Sections 406, 506(2), 354, 377, 507, 323, 420, 498-A, 504 r/w 34 of the Indian Penal Code.

2. Petitioner no. 1 and Respondent No. 3 are husband and wife. Rest of the petitioners are relatives of petitioner No. 1 and in

laws of Respondent No. 3. Matrimonial dispute give rise to filing civil as well as criminal proceedings and the said subject FIR is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences. Accordingly, the parties have filed consent terms in M.P. No. 378 of 2019 which is a Petition for divorce by mutual consent filed under Section 13(b) of the Hindu Marriage Act before the Hon'ble Civil Judge, Senior Division at Thane. The consent terms are signed by the Petitioner No. 1 and Respondent No. 3 along with their respective counsels. The consent terms therefore is taken on record. In para no. a) of the Consent Terms, petitioner agreed to pay an amount of Rs. 25,00,000/- to Respondent No. 3 by way of full and final settlement of her past, present and future claim for maintenance / permanent alimony. Out of this amount, an amount of Rs. 15,00,000/- is already received by the Respondent No. 3 from the Petitioner No. 1 and balance of amount of Rs. 10,00,000/- is to be paid to Respondent No. 3 at the time of final decree of Divorce. Pursuant to the understanding arrived at between them, present petition is filed for quashing the above FIR by consent of Respondent No. 3.

4. Respondent No. 3 has also filed an separate affidavit wherein she has given no objection to quash and set aside the subject FIR.

5. Petitioner No. 1 and Respondent No. 3 are personally present before the Court. On specific query made by us, Respondent No. 3 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 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 498-A 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.”

7. Resultantly we quash and set aside the Criminal Case bearing RCC No. 1016/2017 in FIR No. I-27/2017 registered with Vashi Police Station, Navi Mumbai for an offence punishable under Sections 406, 506(2), 354, 377, 507, 323, 420, 498-A, 504 r/w 34 of the Indian Penal Code.

8. Writ Petition stands allowed in terms of prayer **clause '(b)'**.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J)