

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTON

**CRIMINAL APPLICATION NO. 1198 OF 2016**

Ashooram Shankarlal Vaishnav & Anr. ..Applicants.

Versus

State of Maharashtra & Another. ..Respondents.

**WITH**

**CRIMINAL APPLICATION NO. 908 OF 2016**

Jashoda Ravi Shankar Ramawat ..Applicant.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Chavva N. S. Rama Kumar for the Applicants.

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

Mr. Shivaji Farakate for Respondent No. 2.

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

Date : **March 25, 2019.**

P. C. :

1. Heard learned counsel appearing for the respective parties. Both these applications seek to quash and set aside one and the same FIR bearing CR. No.193 of 2015 registered with Navghar Police Station, Bhayandar East, Thane. The Applicants in APL No. 1198 of 2016 are the father-in-law and mother-in-law of original complainant whereas the Applicant in APL No. 908 of 2016 is sister-in-law of the original complainant.

2. The said FIR came to be registered at the instance of original complainant–Respondent No.2 herein, on the allegations of commission of offence punishable under sections 498A, 406, 323, 504

and 506 read with 34 of the Indian Penal Code, 1860. The said FIR is filed against the Applicants as well as ex-husband of original complainant no.2, who is not before us, namely, Pravin Vaishnav.

3. Respondent No.2 and Pravin got married in the year 2014. The matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties, the subject proceeding is one of them.

4. Learned counsel for the respective parties submitted that pending investigation into above FIR, with the help and intervention of family members, friends and well-wishers, the parties—husband Pravin and complainant Respondent No.2—have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present applications are filed for quashing the above FIR by consent of Respondent No.2. They submitted that accordingly parties have filed Memorandum of Understanding before the Court of JMFC, Thane in DV Case No. 232 of 2015 and in terms of the MoU—consent terms, the parties have got divorce by mutual consent under section 13-B of the Hindu Marriage Act, 1955 from the Family Court at Hyderabad. Copy of the said consent terms and copy of the divorce decree is placed on record of these applications along with affidavit. In terms of the understanding between the parties, now they have approached this Court for quashing

the subject FIR not only against the present applicants but also as against ex-husband – Pravin.

5. Respondent No.2 has filed an affidavit dated 2<sup>nd</sup> March 2019. Whatever is stated hereinabove is re-iterated by Respondent No. 2 in the said affidavit. In paragraph 9, she has given no objection to quash the subject FIR against the Applicants as well as against her ex-husband.

6. 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. She has further affirmed that terms and conditions of the consent terms are already complied with and therefore she has no objection to quash the subject FIR against the Applicants as well as against her ex-husband – Pravin.

7. The learned counsel for the Applicants having taken instructions from Pravin, the ex-husband of Respondent No.2, who is present in the Court states that consent terms are complied with.

8. 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].

9. 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.

10. 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 FIR /.. criminal proceedings. Accordingly, both the applications are allowed in terms of prayer clause (a). The subject FIR is quashed as against the Applicants herein as well as against Mr. Pravin Vaishnav.

**[SMT. BHARATI H. DANGRE, J.]**

**[RANJIT MORE, J.]**