

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 826 OF 2019

Nikhil D. Mody and Others. ..Applicants.
Versus
State of Maharashtra. ..Respondent.

Mr. Kuldeep S. Patil for the Applicants.
Ms. S. D. Shinde, APP for the Respondent-State.
Mr. Balwant parmar i/b Divya Pawar for the Respondent no.2.

Coram : RANJIT MORE &
N. J. JAMADAR, JJ.
Date : **September 9, 2019.**

P. C. :

1. Heard learned counsel for the Applicants, learned counsel for Respondent No.2 and the learned APP for the Respondent-State.
2. By this application filed under section 482 of the Code of Criminal Procedure, 1973, the Applicants are seeking to quash and set aside the proceedings of criminal case bearing CC. No.6700467/SW/17 pending on the file of learned Metropolitan Magistrate, Borivali, Mumbai. The said case is an offshoot of FIR registered with Goregaon Police Station, Mumbai, bearing CR. No. I-596/2017. The said FIR is registered at the instance of Respondent No.2 herein, where the allegations levelled against the Applicants are with regard to commission of the offences

punishable under sections 420, 498-A, 406, 503 read with 34 of the Indian Penal Code, 1860, section 66B of the Information Technology Act, 2000 and sections 3 and 4 of the Dowry Prohibition Act, 1961. Applicant No. 1 and Respondent No. 2 are the husband and wife. Rest of the Applicants are the relatives of Applicant No.1 and in-laws of Respondent No.2. The marital discord between the parties gave rise to the filing of several proceedings, civil as well as criminal, and the present FIR / criminal case is one of them.

3. 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 application is filed for quashing the above criminal proceedings, by consent of Respondent No.2. Learned counsel further submitted that parties have filed consent terms in the divorce proceedings pending before the Family Court Mumbai at Bandra, namely, Petition No.A-2037 of 2018, and as agreed Respondent No.2 is giving consent for the quashment of the subject proceedings.

4. Respondent No. 2 has filed an affidavit in this Court, being Affidavit dated 9th September 2019 wherein in paragraph no.5 she has given no objection to quash the subject criminal proceedings against the Applicants.

5. 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 /criminal proceedings initiated by her against the Applicants.

6. The Applicants and Respondent No.1 are personally present before the Court. They submitted through their respective advocates that they will abide by the consent terms filed by them before the Family Court. Statement accepted.

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 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, application is allowed in terms of prayer clause (a).

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]