

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1520 OF 2016

Dattatraya Mahadev Hole and Others. ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

WITH
WRIT PETITION NO. 3288 OF 2016

Sanket Sanay Bhujbal and Others. ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. S. R. Dubey for the Petitioner.
Mr. K. V. Saste, APP for the Respondent-State.
Ms. Divya Parab I/b R. N. Gite for Respondent No. 2 in WP No. 1520 of 2016
Ms. Nirmala Bhosale I/b V. G. Kumbhar for Respondent No. 2 in WP No. 3288 of 2016.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **April 15, 2019.**

P. C. :

1. Heard the learned counsel appearing for the respective parties. Both these petitions seek quashment of an FIR bearing CR. No. 521 of 2015 registered with Samata Nagar Police Station, Mumbai. The said FIR is registered at the instance of Respondent No. 2, alleging commission of the offence punishable under sections 498A, 406, 323, 504, 506(II), 313 and 315 read with 34 of the Indian Penal Code, 1860.

2. Respondent No.2 and Petitioner No.1 in Writ Petition No. 3288 of 2016, i.e., Sanket, are the husband and wife. Rest of the Petitioners are in-laws of Respondent No.2. The matrimonial dispute

between the parties gave rise to filing of several civil as well as criminal proceedings by the parties against one another and the present FIR is one of them.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences / disputes amicably and filed consent terms before the Family Court at Pune in P.A. No. 864 of 2015. In terms of this settlement, the parties have agreed to get the decree of divorce under section 13-B of the Hindu Marriage Act, 1955. Husband-Sanket has agreed to pay to wife - Respondent No.2 an amount of Rs.30 lakh by way of full and final settlement of her claims for maintenance. The parties also agreed that Respondent No. 2 shall give no objection for quashing the subject FIR. In terms of this settlement, the parties have approached this Court invoking the jurisdiction of this Court under section 482 of the Code of Criminal Procedure, 1973 seeking quashment of the FIR.

4. In the present writ petitions, Respondent No. 2 has filed affidavits dated 12th April 2019. In paragraph 8 of the said affidavits, she has given no objection to quash the subject FIR. Along with the said affidavits, she has also placed on record copy of the consent terms filed by the parties before the Family Court at Pune.

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 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 FIR alive 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 FIR. In the backdrop of above, we quash and set aside the subject FIR. Both the petitions are made absolute in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]