

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4548 OF 2018

Ganesh Suresh Pansare and Others. ..Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. K. S. Patil I/b P. M. Patil for the Petitioner.

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

Mr. Pravin H. Padave and Salil Dhuree I/b Hemant Gokhale for
Respondent No. 2.

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

Date : April 8, 2019.

P. C. :

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No.2 and learned APP for the Respondent-State. By this petition filed under Article 226 of the Constitution of India, the Petitioners are seeking to quash and set aside the FIR bearing CR. No. I-148 of 2018 registered with Kalwa Police Station, Thane at the instance of Respondent No.2. The said FIR is in connection with the commission of offence punishable under sections 498A, 406, 323, 504 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No. 1 and Respondent No. 2 are the husband and wife. Rest of the Petitioners are the relations of Petitioner No. 1. Matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one another and the subject matter of present petition – FIR is one of them.

3. The learned Counsel appearing 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 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 FIR by consent of Respondent No. 2 (original complainant).

4. Respondent No.2 has filed an affidavit dated 8th April 2019. In paragraph 5 and 6 of the said affidavit, she has made following averments :

“4. I further state that pending the hearing of the present application No. 89 of 2018 filed u/s 12, 17, 18, 19,20,22, 23 of the Protection of Women from Domestic Violence Act, 2005, we have settled our disputes amicably.

5. I further state that the Applicant No.1 and Respondent No. 2 also filed marriage petition No. 961 of 2018 for dissolution of marriage by mutual consent in the Hon'ble Court of Civil Judge, Kalyan. The said marriage petition is

pending before the Hon'ble Civil Judge, Kalyan for Judgment and Decree."

. Further, in paragraph 11, Respondent No. 2 has given her consent to quash the subject FIR against the Petitioners.

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 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 FIR.

9. In the backdrop of above, writ petition is made absolute in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]