

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1360 OF 2018

Hemal Kaushik Damani and Others. ..Applicants.
Versus
State of Maharashtra & Another. ..Respondents.

Ms. Swati Khatri for the Petitioner.
Mrs. A. S. pai, APP for the Respondent-State.
Mr. Dushyant Purekar for Respondent No.2.

Coram : RANJIT MORE &
N. J. JAMADAR, JJ.
Date : **September 17, 2019.**

P. C. :

1. Heard learned counsel for the Applicant, learned counsel for Respondent No.2 and 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 No.1894/PW/2017 pending on the file of learned Metropolitan Magistrate, 10th Court at Andheri, Mumbai. The said proceeding is an offshoot of FIR bearing CR. No. 547 of 2015 registered with Juhu Police Station, Mumbai at the instance of Respondent No.2 for the offences punishable under sections 498A, 406, 506 and 504 read with 34 of the Indian Penal Code, 1860.

3. Applicant No.1 and Respondent No.2 are the husband and wife. Rest of the Applicants are the relations of Applicant No.1 and the in-laws of Respondent No.2. The matrimonial discord between the parties gave rise to the filing of several civil as well as criminal proceedings against each other and the subject matter of present application is one of them.

4. 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. They further submitted that parties have accordingly filed consent terms before the Family Court at Bandra, Mumbai in M. J. Petition No. 2944 of 2017. [Copy of the said consent terms is placed on record.]

5. Respondent No.2 has accordingly filed an affidavit dated 13th June 2019. In paragraph 4, she has given no objection to quash the proceedings of subject criminal case. 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 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 criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

8. 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.]