

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3820 OF 2021

Sumeet Haresh Duseja & Others. ..Petitioners.
Versus
The State of Maharashtra & Another. ..Respondents.

Mr. Chaitanya Pendse for the Petitioner.
Ms. Siddhi Bhosale for Respondent No. 2.
Mr. J. P. Yagnik, APP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
MADHAV J. JAMDAR, JJ.
Date : **October 25, 2021.**

P. C. :

1. Heard learned counsel for the Petitioner. The petition is filed in this Court seeking the quashment of FIR lodged at Wakad police station, Pune and the proceedings arising out of the said FIR in the form of Regular Criminal Case No.2802 of 2020 pending before the JMFC, Pune. It may not be necessary for us to refer to the facts in detail. Suffice it to say that on a discord, more particularly matrimonial discord between the parties, a report was lodged at Wakad Police Station, Pune against the Petitioners for the commission offence punishable under sections 377, 498A, 323, 504 and 506 r/w 34 of IPC.

2. learned counsel for the Petitioners submitted that during the pendency of the proceedings, a better sense prevailed over the

parties and with the intervention of the elderly persons in the family, the parties have decided to settle the terms considering a better future of the parties as well as better future of their minor son. A statement to that effect finds place in the document placed on record at Exhibit-B to the petition, under the caption "Consent terms" and it reads thus :

"The Petitioner No.1 and Respondent No. 2 taking into account the betterment of their son and his future life ahead and also the advice of the elders decided to settle all the dispute and bury all their past differences"

3. It is also stated that Petitioner No. 1 and Respondent No. 2 are now residing together under one roof along with their minor son. Our attention was also invited to the affidavit filed in this Court on behalf of Respondent No. 2 – Ms. Chandani Sumeet Duseja on 24th September 2021. It is stated in the said affidavit by Ms. Chandani that there are no disputes remaining between herself and the Petitioners in respect of the accusations and allegations made under the provisions of IPC and it is further stated Petitioner No. 1 and Respondent No. 2 are residing together along with their son in Mumbai.

4. Considering the fact that dispute was in the nature of matrimonial dispute and it was purely interse and there was no offence allegedly committed by the parties involving any public cause.

5. 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."

6. 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. It can safely said that in view of the course adopted by the parties and particularly in view of the settlement between parties and considering the fact that they being residing under one roof happily, there is hardly any chance that the criminal proceedings would result in conviction. 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 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 criminal proceedings. **Accordingly, writ petition is allowed in terms of prayer clause (a). Writ petition, thus, stands disposed of.**

9. Learned counsel for the Petitioner also placed on record a document duly signed by the parties and it is stated in the said document

that the gold items mentioned in the list are returned to Respondent No. 2–Mrs. Chandani Duseja and Mr. Gopi Topandas Wadhwani on 24th September 2021. The said document bears signatures of Mrs. Chandani Duseja and Mr. Gopi T. Wadhwani and one witness Mr. Daulat S. Duseja. The said document is taken on record and marked “X” for identification.

[Madhav J. Jamdar, J.]

[Prasanna B. Varale, J.]