

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 45 OF 2022

Manthan Kishor Dave & Others. ...Applicants.
Versus
The State of Maharashtra & Another. ..Respondents.

Pipli Datta for the Applicant.
Mr. J. P. Yagnik, APP for the Respondent-State.
Mr. Hardik Vyas for Respondent No. 2.

CORAM: PRASANNA B. VARALE &
ANIL S. KILOR, JJ.
Date: **February 3, 2022.**
[Through video conferencing.]

P. C. :

1. Heard learned counsel appearing on behalf of the Applicants, learned APP Mr. Yagnik appearing for the Respondent-State and learned counsel appearing on behalf of Respondent No. 2.
2. The present application is filed for seeking quashment of the criminal proceedings bearing PW No.3503 of 2019 pending on the file of 22nd Additional Chief Metropolitan Magistrate Court, Andheri, Mumbai, which has arisen from the first information report (FIR) bearing No. 97 of 2019 registered with MIDC Police Station, Mumbai for the offences punishable under sections 498A, 406 and 504 read with 34 of the Indian Penal Code, 1860.
3. By occupation, Applicant No.1 is a chemical engineer. As in the year 2017 he was to proceed to Canada, the marriage between

Applicant no.1 and Respondent No.2 was solemnised on 21st March 2017. It seems that within a short span of time of matrimonial life, the couple was faced with matrimonial discord and the same resulted in frequent quarrels between the couple.

4. Perusal of the material placed on record further shows that Respondent No.2 approached MIDC Police Station and submitted the report – FIR, which has further culminated into the afore-stated criminal proceeding against the Applicants.

5. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceeding, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant application is filed for quashing the above criminal proceedings, by consent of original complainant - Respondent No.2 herein. It seems that the parties have decided to part their ways.

6. Our attention was invited to the document placed on record at Exhibit-C (page No.126) to the application under the caption “consent terms”. The affidavit at the instance of Respondent No.2 – original complainant, supporting the consent terms is also placed on record. Respondent No.2 is also personally present before this Court by way of virtual mode. On specific query put to Respondent No.2, she

submitted that the consent terms are arrived at by her on her own free will and wish. She has further confirmed that she has no objection for quashing the criminal proceedings in question instituted at her instance against the Applicants for the offence punishable under sections 498A, 406 and 504 read with 34 of the Indian Penal Code, 1860.

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 of IPC 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."

8. 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].

9. 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.

10. 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 criminal proceedings pending except burdening the Criminal Courts which are already overburdened. We are, therefore, of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the Applicants in the instant case will amount to the abuse of process of Court and therefore it is in the fitness of things to quash the criminal proceedings in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored.

11. In the light of the principles laid down by the Apex Court in

the aforesaid decisions 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 criminal proceedings in question. Accordingly, application is allowed in terms of prayer clause (a).

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]