

UMESH
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

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WRIT PETITION NO. 342 OF 2022

Mr. Hafiz Iqbal Chali and Others ...Petitioners

Versus

Mrs. Zeenat Hafiz Chali Nee
Zeenat Navalakhia & Anr ...Respondents

- Dr. Shreya Shrivastava a/w Adv. Varsha Manoharan for Petitioners.
- Adv. J.P. Yagnik, APP, for the Respondent – State.
- Adv. Hitesh Patel i/by Kunal Phule for Respondent No.1.
- Mrs. Zeenat Hafiz Chali Nee Zeenat Navalakhia – Respondent No. 1 is present.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : MAY 06, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. The present Petition is filed under Article 226 & 227 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 seeking to quash FIR bearing CR No. 0257 of 2017, dated 19.06.2017 registered with Goregaon Police Station, Mumbai along with criminal proceedings bearing C.C. No.

516/PW/2019 pending before 67th Metropolitan Magistrate, Borivali, Mumbai on the allegation of commission of offences punishable under Sections 498-A, 323, 506, 504, 377, 406 read with 34 of Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No. 1 herein against the Petitioners who are her husband and in-laws respectively.

3. The marriage between Petitioner No. 1 and Respondent No. 1 took place on 18th December, 2016. Unfortunately, the marital ties does not go well with the couple and soon the disputes emerged between the parties which laid to the filing of civil as well as criminal cases parties against each others and the present FIR is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above FIR, with the help and intervention of elderly persons of family, 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 Petition is filed for quashing the above FIR & criminal

proceedings, by consent of original informant - Respondent No. 1 herein. Apparently, the parties have also filed civil proceedings seeking divorce by mutual consent.

5. Respondent No. 1 has filed an affidavit dated 28th January, 2022 wherein she has stated that in the civil proceedings the parties have decided to part their ways and in that view of the matter, she is not interested in continuing with the criminal prosecution of the Petitioners in the subject criminal case. She has solemnly affirmed that she is withdrawing all the allegations made against the Petitioners in the said FIR and she has no objection for quashing the FIR in question.

6. Respondent No. 1 is personally present before the Court. On a specific query made by this Court to Respondent No. 1, she submitted that she has made the said affidavit on her own free will, without there being any pressure or coercion or undue influence. She has further confirmed that she has no objection for quashing the FIR as well as criminal proceedings in question instituted at her instance against the

Petitioners.

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 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. Considering all above fact-situation, the position emerges from material placed before this Court is that the parties have adopted an approach of forget and forgive and are desirous of leading peaceful future life by parting their ways.

11. As per the Petitioners, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that they have no grudge against each other and the complainant has specifically agreed that she has no objection if the

FIR & criminal proceeding in question is quashed. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between the parties before the Court. As they do not intend to proceed with any criminal case against each other, on that basis the submission of the Petitioners before the High Court was that the continuance of the criminal proceedings in the aforesaid FIR will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

12. 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 alive, except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of FIR in the instant case will amount to abuse of the process of Court and therefore, it is in the fitness of things to quash the subject FIR and

criminal proceedings arising out of the said FIR 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.

13. 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 criminal proceedings & FIR in question.

14. Accordingly, Writ Petition is allowed in terms of prayer clause (a).

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)