

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 619 OF 2022

Nagma Shahnawaz Shaikh & Ors.

...Petitioners.

Versus

The State of Maharashtra.

..Respondent.

Ms. Shagufa Ansari, Advocate for Petitioners.

Ms. A.S. Pai, PP for Respondent-State.

CORAM : PRASANNA B. VARALE &

S.M. MODAK, JJ.

Date : April 22, 2022.

P. C. :

1. The First Informant herself has approached this Court invoking the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 along with Article 226 of the Constitution of India seeking to quash the First Information Report (FIR) lodged by herself against her husband and in-laws, who are arraigned as Petitioner Nos.2 to 12 in this petition.

2. Evidently, Petitioner No.1 (the First Informant) lodged FIR bearing Crime No.525 of 2021 with Paydhonie Police Station on 20th July, 2021 alleging the commission of offences punishable under sections 498(A), 324, 323, 504, 506 and 509 read with 34 of the Indian Penal Code, 1860.

3. Though the allegations in FIR against the accused persons, (Petitioner Nos.2 to 12 herein) are essentially, with regard to the matrimonial discord between the parties, now Petitioner No.1 has come with case that all

those disputes and differences have been put to rest and she has been living with her husband peacefully and happily.

4. Learned counsel appearing on behalf of the petitioners, which include complainant/first informant herself, submitted that during the pendency of investigation into above FIR, with the help and intervention of family members, elderly persons, friends and well-wishers, the parties have amicably settled their disputes and 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, by consent of original complainant - Petitioner No.1 herein.

5. Petitioner No.1 at whose instance the criminal law was put into motion, has filed an affidavit dated 02nd February, 2022, supporting the petition, wherein she has reiterated and reaffirmed the contents of petition and prayed for the grant of petition.

6. Petitioner No.1 was personally present before this Court on previous occasion i.e. on 01st April, 2022. On that day, on a specific query made by us, she submitted that she had filed the instant petition and made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she had no objection for quashing the subject FIR instituted at her instance against Petitioner Nos. 2 to 12 for the offences punishable under sections 498(A), 324, 323, 504, 506 and 509 read with 34 of the Indian Penal Code, 1860.

7. At this juncture, useful reference can be made to the decision of Apex Court in B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386] wherein the Apex Court 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].

8. 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 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.

9. Evidently, 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 in question is quashed. Further, 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 the Petitioner No. 1 does not intend to proceed with FIR against Petitioner Nos. 2 to 12, on that basis the submission of the petitioners is that the continuance of the prosecution in the aforesaid FIR will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

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 subject FIR alive, except ultimately burdening the Criminal Courts which are already overburdened. In the backdrop of the aforesaid fact-situation, we are of the view that the continuation of prosecution of subject FIR 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 subject FIR in order to secure the ends of justice. We are in agreement with the submission of

learned Counsel appearing for the petitioners 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 petitioners is put to an end and peace is restored.

11. 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 FIR. Accordingly, writ petition is allowed in terms of prayer clause (a). There shall be no order as to costs.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]