

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 819 OF 2022

Hardik Mukesh Chheda & Ors. ...Petitioners.

Versus

The State of Maharashtra & Another. ..Respondents.

Mr. Nishant Tripathi, Advocate i/b M/s. M. Tripathi & Co. for the Petitioners.

Mr. Smit Nagda, Advocate for Respondent No. 2.

Ms. M.H. Mhatre, APP for the Respondent-State.

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

Date : April 22, 2022.

P. C. :

1. The petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India as well as Section 482 of the Code of Criminal Procedure, 1973 to seek quashment of a criminal proceeding against them pending on the file of 15th Jt. JMFC, Vashi, Navi Mumbai in the form of Regular Criminal Case No. 725 of 2018. The said proceeding is the result of an First Information Report (FIR) bearing Crime No. 14 of 2018 dated 10th January, 2018 registered at Vashi Police Station, Navi Mumbai at the instance of Respondent No.2 on the allegation of commission of offences punishable under sections 498(A), 406, 323, 504, 506 read with 34 of Indian Penal Code, 1860. Apparently, the persons arraigned as accused are husband and in-laws of Respondent No.2.

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2. Essentially, it is a matrimonial dispute which has resulted into lodgment of the FIR. Petitioner No.1 and Respondent No.2 got married on 05th September, 2015, however, the marriage could not led to a happy life and soon discord developed between the parties which resulted into filing of various proceedings by the parties against each other making counter allegation against each other. The present proceeding is also one of them.

3. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual consent and pursuant to the understanding arrived at between them, the instant petition is filed for quashing the above criminal proceedings, by consent of original complainant - Respondent No.2 herein. The counsel further submitted that the parties have already approached the Family Court by filing petition for divorce by mutual consent, being Petition No. F/527/2022 which is pending at Family Court at Bandra, Mumbai.

4. In this Court, Respondent No.2 has filed an affidavit dated 30th March, 2022, wherein she has stated that the disputes and differences between herself and petitioners have been settled and accordingly they have decided to put an end to the matrimonial relationship by seeking divorce by mutual consent. She has further stated that therefore 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. She has given unequivocal no objection to quash the criminal proceedings of the criminal case against the petitioners bearing Regular Criminal Case No. 725 of 2018 for offences punishable under sections 498(A), 406, 323, 504, 506 read with 34 of Indian Penal Code, 1860.

5. Respondent No.2 was 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 criminal proceedings in question instituted at her instance against the petitioners for the offences punishable under sections 498(A), 406, 323, 504, 506 read with 34 of Indian Penal Code, 1860.

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.

8. 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 and proceedings are put to an end. 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 is that the continuance of the criminal proceedings in the aforesaid FIR as well as criminal proceedings will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

9. 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 or FIR alive, except ultimately burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforesaid fact-situation, the continuation of prosecution of the petitioners 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 criminal proceeding 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.

10. 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 in question. Accordingly, writ petition is allowed in terms of prayer clause (a). No order as to costs.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]