

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

CRIMINAL APPLICATION NO. 267 OF 2022

Ganesh Narayan Jadhav & Ors ...Applicants

Versus

Smita Ganesh Jadhav & Anr ...Respondents

- Dr. S.S. Karmarkar for Applicants.
- Adv. V.V. Patil for Respondent No.1.
- Adv. J.P. Yagnik, APP, for the Respondent – State.

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

DATE : APRIL 22, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. The present Application is filed under Section 482 of Code of Criminal Procedure, 1973 seeking to quash FIR bearing CR No. 394 of 2018 registered with Kashimira Police Station, Mumbai on the allegation of commission of offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code and proceedings arising out of the CR bearing R.C.C No. 1893/2019 pending before the JMFC, Thane. The said FIR

is registered at the instance of Respondent No. 1 herein against the Applicants who are her husband and in-laws respectively.

3. The marriage between Applicant No. 1 and Respondent No. 2 took place on 16.04.2016. 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 / proceedings is one of them.

4. 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 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 Application 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-in-reply dated 14th March, 2022 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Applicants in the subject criminal case. She has solemnly affirmed that she is withdrawing all the allegations made against the Applicants in the said FIR and criminal proceedings and that she has no objection for quashing the FIR in question & proceedings of the criminal case bearing R.C.C No. 1893/2019.

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 / criminal proceedings in question instituted at her instance against the Applicants.

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.

11. As per the Applicants, 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 informant has specifically agreed that he has no objection if the FIR 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 Applicants

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, Criminal Application is allowed in terms of prayer clause (a).

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)