

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 342 OF 2022

Ashish Angad Kavthe & Ors. ...Applicants.

Versus

Pratimbha Ashish Kavathe
@Pratibha Balaji Hasule & Another. ..Respondents.

Mr. Vinod P. Sangvikar, Advocate for Applicants.
Ms. Rui Danawalla i/b Rajesh S. Jadhav, for Respondent No. 1.
Ms. A.S. Pai, PP for the Respondent-State.

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

Date : April 22, 2022.

P. C. :

1. Invocation of the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973 is sought for by the applicants to quash the First Information Report (FIR) bearing CR. No.22 of 2022 registered against them with Gangapur Police Station, Nashik City, Nashik on the allegations of commission of offence punishable under sections 323, 498A, 504 and 506 read with 34 of the Indian Penal Code, 1860. The said FIR is registered at the instance of Respondent No. 1 herein.

2. Applicant no.1 and Respondent No.1 got married on 19th December 2020 at Nashik. Other applicants are the parents and brothers of Applicant no.1. The matrimonial discord between the couple gave rise to the filing of several civil and criminal proceedings by the parties against one

another and the present FIR is one of them.

3. Learned Counsel appearing for the respective parties submitted that pending investigation into above FIR, 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 FIR, by consent of original complainant - Respondent No.1 herein. The learned counsel submitted that the parties have entered into consent terms dated 18th February 2022 in Miscellaneous Criminal Application No. 186 of 2021 taken out in this Court on civil side and copy of the same is placed on record of this application also.

4. Before this Court, Respondent No.1 has filed an affidavit dated 22nd February 2022 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Applicants in the subject FIR in view of the amicable settlement between the parties. She has solemnly affirmed that she is withdrawing all the allegations made against the Applicants in the said FIR and that she has no objection for quashing the FIR in question against the applicants.

5. 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].

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint/FIR, 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. 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 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. The consent terms are on record at page no.19 to the application, wherein it is recorded that the parties have decided to seek divorce by mutual consent in the matrimonial proceeding and in that view of the matter they wish to put an end to all litigation between them. As the parties do not intend to proceed with any criminal case against each other, on that basis the submission of the applicants is 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.

7. 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. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of the applicants in the instant case / FIR will amount to abuse of the process of Court and therefore it is in the fitness of things to quash the FIR in question 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.

8. 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 FIR in question. Accordingly, application is allowed in terms of prayer clause (a).

[S. M. Modak, J.]

[Prasanna B. Varale, J.]