

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1247 OF 2022

Sandeep Krishna Suresh & Anr. ...Petitioners.

Versus

The State of Maharashtra & Another. ..Respondents.

Mr. Rakesh H. Pathak, Advocate for Petitioner.

Ms. Sayali Pathak, Advocate for Respondent No. 2.

Mr. J.P. Yagnik, APP for Respondent-State.

CORAM : PRASANNA B. VARALE &

S.M. MODAK, JJ.

Date : April 22, 2022.

P. C. :

1. Invocation of the powers of this Court under Article 226 of the Constitution of India as well as section 482 of the Code of Criminal Procedure, 1973 is sought for by the petitioners to quash the First Information Report (FIR) bearing Crime No. 657 of 2021 registered with Vikroli Police Station against them at the instance of Respondent No.2 on the allegation of commission of offences punishable under sections 498(A), 504, 506 and 323 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No.1 and Respondent No.2 are the husband and wife whereas Petitioner No.2 is the mother of Petitioner No.1. It appears that matrimonial discord between the parties gave rise to the filing of present FIR.

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3. Learned Counsel appearing for the respective parties submitted that during the pendency of 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 petition is filed for quashing the above FIR, by consent of original complainant - Respondent No.2 herein. Learned counsel appearing on behalf of both the sides submitted that the parties are now residing together happily and therefore Respondent No.2 does not want to proceed further with the prosecution of petitioners in the instant FIR.

4. Respondent No.2 has filed an affidavit dated 22nd April 2022 before this Court wherein she has stated that she is not interested in continuing with the criminal prosecution of the the Petitioner in the subject FIR since Petitioner no.1 and herself are residing together happily with their daughters. She has further stated that in view of the settlement of dispute, the present petition for quashment of subject FIR has been filed and she has filed the present affidavit in support of said petition.

5. Respondent No.2 is 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 FIR in question instituted at her instance against the Petitioners.

6. At this juncture, it will be useful to refer 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].

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. 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. 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 will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

8. 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 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 petitioners 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 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.

9. 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, petition is made absolute in terms of prayer clause (a).

[S. M. Modak, J.]

[Prasanna B. Varale, J.]