

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1248 OF 2022

Pankaj Devidas Chute and Others. ...Petitioners.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Tejsweeta Vaibhav Bhosale for the Petitioners.

Mr. K. V. Saste, APP for the Respondent-State.

Mr. Ishwal S. Charlewar for Respondent No. 2.

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

Date : May 2, 2022.

P. C. :

1. On the premise that there has been an amicable settlement of disputes between the parties, the present writ petition is filed by the petitioners invoking 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, seeking to quash the first information report bearing FIR No. 124 of 2018 registered with Haveli Police Station, Pune as well as the consequential criminal proceeding, namely, Sessions Trial Case No. 803 of 2018 pending on the file of Sessions Judge, Pune. The said FIR has been registered at the instance of Respondent No. 2 herein on the allegation of commission of offences punishable under sections 307, 498A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No.1 and Respondent No.2 are the husband and

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wife. Rest of the petitioners are the relatives of Petitioner No. 1 and in-laws of Respondent No. 2. The marital bliss does not survive for long between Petitioner No. 1 and Respondent No. 2, which led to the filing of various proceedings by the parties against each other and the present FIR is one of them.

3. Learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceeding, namely, Sessions Case No.803 of 2018, 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 and criminal proceedings, by consent of original complainant - Respondent No.2 herein.

4. Respondent No.2 has filed an affidavit dated 17th April 2022 before this Court, wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioners in the subject FIR and criminal case. She has stated since all the disputes have been amicably settled and the marriage between Petitioner No. 1 and herself has been dissolved by the decree of divorce by mutual consent, she does not wish to prosecute the Petitioners in the subject FIR and sessions case. She has further stated that she therefore has no objection if this writ petition is allowed and the to quash the FIR and subject sessions case.

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 and criminal proceedings in question instituted at her instance against the the Petitioners.

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. Insofar as the invocation of section 307 of the Indian Penal Code, 1860 is concerned, which is a serious offence, allegations levelled by Respondent No.2, in our view do not spell out any ingredients of the said section. The decision of the Apex Court in Narinder Singh vs. State of Punjab [2014 AIR SCW 2065], makes it clear that the Court cannot decline to quash the FIR merely because the FIR incorporates a particular provision which is a serious offence or an offence against the society. The Court has to endeavour to find out whether the FIR indeed discloses ingredients of such offence and that the Court can accept the settlement and quash the FIR / Charge-sheet if the Court is of the opinion that such an offence is unnecessarily incorporated in the charge-sheet. In the instant case, the FIR reveals that the Complainant – Respondent No.2 has merely alleged that Petitioner No.1 beat her by fists and kicks. So also, the perusal of medical certificate also does not reveal that Respondent No. 2 has suffered any major injury. In that view of the matter, in our view, the incorporation of section 307 of the Indian Penal Code, 1860 in the FIR does not make the present case a serious offence as such.

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 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.

9. It is thus clear that 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, 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. Even Respondent No. 2 herself has stated that now they have parted ways as they have obtained divorce by mutual consent and are no more husband and wife.

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 criminal proceedings pending 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 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 case, being Sessions Case No. 803 of 2018 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.

11. 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 subject sessions case. Accordingly, petition is made absolute in terms of prayer clause (b).

[S. M. Modak, J.]

[Prasanna B. Varale, J.]