

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 364 OF 2021

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Sharad Waman Desale And Ors ...Applicants

Versus

The State of Maharashtra & Anr ...Respondents

- Mr. Dheeraj Pancharge for Applicants.
- Mr. Swapnil R. Chopade for Respondent NO. 2.

CORAM : PRASANNA B. VARALE &
S.P. TAVADE, JJ.

DATE : FEBRUARY 17, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. **Rule.** Rule made returnable forthwith. With the consent of learned Counsel appearing for respective parties, heard finally.

3. Applicant No. 1 is the husband of Respondent No. 2 whereas Applicant No. 2 to 4 are the other matrimonial relations namely, mother-in-law, brother-in-law and father-in-law respectively. Respondent No. 2 had approached the Kinhavali Police Station, Dist

Shahapur, District Thane. It was submitted in the report that marriage between the Applicant NO.1 and Respondent NO. 2 was solemnized on 30.04.2017. Though, the couple led matrimonial life peacefully for period of 1 years, sometime in the year 2018 the Respondent No. 2 was carrying pregnancy and as such, was unable to do household works. Applicants on that count started ill-treating her. It was submitted in the report that the Respondent No. 2 at times was subjected to abuses and ill-treatment. On receipt of the report, FIR bearing Crime No. 03/2020 registered against the applicants for commission of offences punishable under Sections 498-A, 323, & 328 of IPC.

4. Learned Counsel for the Applicants invited our attention to the copy of consent affidavit filed on behalf of Respondent No.2 placed on record at Exhibit 19 to submit that the parties have arrived at an amicable settlement.

5. Perusal of the said document further show that the Respondent No. 2 stated that though due to minor differences and matrimonial discord, she had approached the police station by lodging report but, in view of

the intervention of the elderly members of the family and well-wishers, Applicant No. 1 and Respondent No. 2 started residing together and she records no objection for quashing the subject FIR lodged against the Applicants. Specific statements are made to that effect in paragraphs 5 to 7.

6. On a query put to Respondent No. 2 as to whether the terms of settlement are agreed as per her own will and wish, the Respondent No. 2 who is personally present in this Court, replied in affirmative.

7. Considering these facts, we are of the opinion that when the better sense had prevail over the parties and the parties have decided to reside together peacefully and lead peaceful matrimonial life and the Respondent No. 2 giving her consent for quashment of the subject FIR, no fruitful purpose would be serve by keeping the subject FIR pending against the Applicants.

8. It will not be out of place to refer to the observations of the Apex Court in the matter of 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].

9. Considering the above referred facts and considering the fact that the parties now decided to part their ways by giving full stop to their earlier matrimonial life and are willing to open a new chapter in their life, on their own, without causing any disturbance or interference in each other's life, we deem it appropriate to allow the Application. Accordingly, The first information report bearing no. 0003/2020 registered at Kinhavali Police Station on 03.01.2020 for commission of offences punishable under Sections 498-A, 323, 328 of IPC and any other proceedings arising out the said FIR, is hereby quashed and set aside.

10. Rule made absolute in above terms.

(S.P. TAVADE, J.)

(PRASANNA B. VARALE, J.)