

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1365 OF 2022

Amar Ramchandra Pawar and others.

...Petitioners.

Versus

The State of Maharashtra & Another.

..Respondents.

Mr. Prathamesh S. Mondal and Ms. Nargis A. Khan for the Petitioners.

Mr. Rahul Mishra for Respondent No. 2.

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

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

Date : May 6, 2022.

P. C. :

1. By the present writ petition, the Petitioners have invoked 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, to quash the first information report (FIR) bearing CR No.131 of 2022 registered with Dahisar Police Station. The allegations levelled against the petitioners in the said FIR, which is registered at the instance of Respondent No.2 herein, are with regard to commission of offences punishable under sections 498A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

2. Petitioner No.1 and Respondent No.2 got married on 23rd

November 2016 . Rest of the petitioners are the relatives of Petitioner No.1. The matrimonial disputes between the parties soon gave rise to the filing of civil as well as criminal proceedings by the parties against each other and the subject matter of present petition is one of them.

3. The 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 petition is filed for quashing the above FIR by consent of original complainant-Respondent No.2 herein.

4. Respondent No.2 has filed an affidavit dated 4th April 2022 wherein she has stated that she has realised that they have future to look forward and it is in their interest / welfare that they put an end to the acrimony and settle the dispute and accordingly the consent terms have been filed before the Family Court at Bandra, Mumbai. She has further stated that she does not want to proceed with her complaint and does not intend to prosecute the Petitioners. She has categorically stated that she has no

complaint, grievance or ill-will of whatsoever nature against the Petitioners. Lastly, in paragraph no.9 she has stated that she has no objection if the subject FIR registered at her instance, is quashed.

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, namely, CR No.131 of 2022 for the offence punishable under sections 498A, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

6. At this juncture, it would be apposite to refer to the decision of the 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. 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. Evidently, 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. 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 petitioners is that the continuance of 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 aforesaid fact-situation, the continuation of prosecution of the Petitioners in the instant FIR will amount to the abuse of process of Court and therefore it is in the fitness of things to quash the 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 FIR 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, the petition is made absolute in terms of prayer clause (b).

[S. M. Modak, J.]

[Prasanna B. Varale, J.]