

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 19 OF 2022

Nitin Dilip Kadam and Ors. ...Petitioners.

Versus

The State of Maharashtra & Another. ..Respondents.

WITH

WRIT PETITION NO. 299 OF 2021

Vandana Bhimrao Jangire & Ors. ...Petitioners.

Versus

The State of Maharashtra & Ors. ..Respondents.

Mr. Tejas Dande a/w Mr. Bharat Gadhave, Mr. Vishal Navale, Mr. Aniket Aghade and Mr. Vikrant Khare i/.b Tejes Dande & Associates for the petitioners.

Mr. Rajendra Anbhule for original complainant (Respondent No.2 in WP No. 19 of 2022 and Respondent No. 3 in WP No. 299 of 2021).

Ms. S. D. Shinde, APP for the Respondent-State.

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

Date : March 14, 2022.

P. C. :

1. The petitioners have approached this Court 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 (FIR) bearing Crime No.310 of 2020 registered with Bhigwan Police Station, District Pune on the allegation of commission of offences punishable under sections 498(A), 323, 326, 504 and 506 read with 34 of Indian Penal Code, 1860 and under section 3 of the Maharashtra

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Prevention and Eradication of Human Sacrifices and other Inhuman, Evil, Aghori Practices and Black Magic Act, 2013. The said FIR is registered at the instance of original complainant (Respondent No. 2 in WP No.19 of 2022 and Respondent No.3 in WP No.299 of 2021) (hereinafter referred to as “original complainant”).

2. In the said FIR, there are in all 9 accused and petitioners in Writ Petition No.19 of 2022 are original accused Nos.1, 2 and 3 and petitioners in Writ Petition No.299 of 2021 are original accused Nos.6 to 9.

3. The marriage between Nitin Dilip Kadam with original complainant took place on 16th November, 2016. The other petitioners are the relatives of said Nitin Kadam. Shortly after the marriage, matrimonial discord between the couple led to filing of various proceedings, civil as well as criminal proceedings by the parties against each other, and the present FIR is one of them.

4. Learned counsel appearing on behalf of the respective parties submitted that during the on going investigation into the subject FIR, with the help and intervention of elderly family members and well-wishers, the parties have settled their disputes and differences amicably and pursuant to the understanding arrived at between them, the present petitions are filed for quashing the subject FIR against the petitioners herein, with the consent of original complainant.

5. The original complainant, namely, Komal Nitin Kadam has filed separate affidavits dated 14th March, 2022 in both the petitions. In the

said affidavits, she has specifically stated that the differences and disputes between herself on the one hand and the petitioners herein on the other hand, who are her husband and in-laws, have been amicably settled and now it is agreed between them that the couple would obtain divorce by mutual consent before the appropriate Court of law. She has further stated that the parties have decided to put an end to all the proceedings pending in the Court of law or Authorities, against each other and therefore now she has no grievance against the petitioners herein and she does not want to proceed against the petitioners herein. Furthermore, she has specifically recorded in the said affidavits that she has no objection for quashing the subject FIR, being FIR No.310 of 2020 registered with Bhigwan Police Station, against the petitioners herein. So also, she has stated in the said affidavits that the couple has tendered consent terms in the marriage petition, therefore, she has already withdrawn the proceedings filed by her against the Petitioners under the provisions of Protection of Women from Domestic Violence Act, 2005. In the concluding paragraph she has again reiterated that petitions filed by the petitioners for quashing the subject FIR may be allowed and she has no objection for quashing the same.

6. The original complainant – Komal Nitin Kadam is personally present before this Court. On specific query made by us, she submitted that she has made the said affidavits 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 herein for the offences punishable under sections 498(A), 323,

326, 504 and 506 read with 34 of Indian Penal Code, 1860 and under section 3 of the Maharashtra Prevention and Eradication of Human Sacrifices and other Inhuman, Evil, Aghori Practices and Black Magic Act, 2013.

7. At this juncture, a useful reference can be made to the decision of Hon' ble Apex Court in B. S. Joshi vs. State of Haryana reported [AIR 2003 SC 1386] wherein the Hon' ble 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].

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. Apparently, 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 *qua* the petitioners herein. 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 Courts/Authorities. As the parties do not intend to proceed with any criminal case against each other, on that basis the submission of the learned counsel for the petitioners is that the continuance of criminal prosecution in the aforesaid FIR will be a futile exercise and mere wastage of precious time of the Court as well as investigating agencies.

9. 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 aforesaid fact-situation, and in the light of fact that the couple

has decided to obtain the divorce by mutual consent, the continuation of prosecution of subject FIR 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 learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case/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.

10. In the light of principles laid down by the Apex Court in the aforesaid decisions 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, both the petitions are allowed in terms of prayer clause (b). No order as to costs.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]