

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3123 OF 2021

1. Prateek Pawan Kedia
2. Pawan Kumar Mahaveer Prasad
Kedia
3. Kusum Pawan Kumar Kedia
4. Priti Amit Chaudhari

...Petitioners

Versus

1. Komal Prateek Kedia
2. The State of Maharashtra

...Respondents

....

Mr. Mahesh Vishwakarma i/b. Mr. Gopalkrishna R. Hegde for the
Petitioners.

Mr. J.P. Yagnik, APP for Respondent No.1-State.

CORAM : PRASANNA B. VARALE &

ANIL S. KILOR, JJ.

ORDER DATED: 1st FEBRUARY, 2022.

P.C.:-

1. By this petition the Petitioners pray for quashment of the FIR being Crime No. 199 of 2015 dated 11/04/2015 registered at Malad Police Station, Mumbai for the offences punishable under Sections 323, 406, 420, 498 A, 504 and 506 r/w 34 of IPC.

2. Respondent No.1 is the first informant, who got married with the Petitioner No.1 on 28/02/2008. There is no issue from the said

wedlock and they are residing separately since 2014. After marriage because of marital discord, Respondent No.1 lodged a criminal complaint being C.R. No.199 of 2015 with Malad police station on 11/04/2015 against the Petitioners for the offences as stated above. It was alleged by Respondent No.1 that she was ill-treated by the Petitioners on various grounds including demands of dowry and doubting the character of Respondent No.1. Said FIR is sought to be quashed and set aside by the present proceedings.

3. We have heard the learned counsel for the respective parties.

4. Learned counsel for the Petitioners has drawn our attention to the consent terms at Exhibit -'C' whereby the Petitioners are agreed to pay Rs.35,00,000/- to Respondent No.1 towards full and final settlement of her claims of maintenance/permanent alimony. Thereupon the Respondent No.1 has agreed to withdraw domestic violence proceedings and give consent for quashing of the present proceedings. It is also agreed between the parties that they will forego their respective claims for jewelry and valuable articles. Learned counsel for the Petitioners therefore pray for quashing of the FIR in question.

5. Learned counsel for Respondent No.1 does not dispute the above referred facts and has admitted the fact of filing of the consent terms and the payment received by Respondent No.1 as per the terms of the consent terms. The first informant was present in the Court by virtual mode of hearing and that she was identified by her counsel.

6. In the aforesaid backdrop after going through the contents of the FIR and in view of the settlement, we are of the opinion that no purpose would be served by asking the parties to face the trial and it would be a futility to continue with the trial.

7. At this juncture, it would be apposite 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 of IPC 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]*.

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. 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 aforesaid 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 FIR and proceeding 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.

10. 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 criminal proceedings in question.

11. Considering the above referred facts and particularly the willingness of parties and the terms agreed between the parties including a term that Respondent No.1 is not desirous to continue with the proceedings initiated at her instance on lodgment of FIR, the petition is allowed and thereby the First Information Report No.199 of 2015 registered with Malad Police Station, Mumbai for the offences punishable under Sections 323, 406, 420, 498 A, 504 and 506 r/w 34 of IPC is hereby quashed and set aside.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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