

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3200 OF 2021

Pradeep Sakharam Bhovad and Others. ..Petitioners.
Versus
The State of Maharashtra & Another. ..Respondents.

Mr. Mukesh B. Nayak for the Petitioners.
Ms. Sneha S. Kadam for Respondent No. 1 and 2.
Mr. K.V. Saste, APP for the Respondent-State.

CORAM: PRASANNA B. VARALE &
ANIL S KILOR, JJ.
Date: **January 5, 2022.**

P. C. :

1. By way of present writ petition, the Petitioners – Pradeep Sakharam Bhovad, Sakharam Gopal Bhovad, Vanita Sakharam Bhovad, Vinod Sakharam Bhovad and Vijay Sakharam Bhovad pray for quashing of the First Information Report (FIR), i.e., C.R.No. 187 of 2020 registered against them at Nirmal Nagar Police Station for the commission of offences punishable under sections 498A, 406, 506 read with 34 of the Indian Penal Code, 1860 and the criminal proceedings taking place in pursuant of the said FIR.

2. Learned counsel appearing on behalf of the Petitioners invited our attention to the affidavit dated 27th August 2021 filed on behalf of Respondent No.2–Smt. Priya Pradeep Bhovad @ Jyostna Joshi.

patilsr

SACHIN
RAMCHANDRA
PATIL

Digitally signed
by SACHIN
RAMCHANDRA
PATIL
Date:
2022.01.14
18:13:14
+0530

It is stated in the affidavit that after filing of complaint, Petitioner No.1 has preferred an application under section 13(1)(ia) of the Hindu Marriage Act, 1955, bearing Marriage Petition No. A-1751 of 2020 before the Family Court at Bandra, which is pending. It is further stated in the affidavit that during the pendency of said marriage petition, Petitioner No.1 and Respondent No. 2 admittedly agreed to seek divorce by mutual consent with the intervention of elderly persons from both the families and other respectable persons from the community.

3. The document under the caption "*consent terms*" was also placed on record. On the backdrop of said affidavit, the Division Bench of this Court was pleased to pass an order dated 14th September 2021, and the order reads thus :

"1. Learned counsel for the Petitioners and 2nd Respondent jointly submit that the parties have amicably resolved the dispute. They have also initiated proceedings before the Family Court. The Petitioner No. 1 is going to deposit Rs. 3 lacks in the Family Court, within one week from today.

2. Respondent No. 2 has filed the affidavit. She is present before the Court. She stated that it is her voluntary act to enter into the settlement and give consent for quashing the impugned FIR.

3. Since the learned counsel for the Petitioners had made the statement that the Petitioner No. 1 will deposit amount of Rs. 3 lacs in the Family Court, within one week from today, we defer the hearing of this petition. List on 27th September 2021, in supplementary causelist.

4. Needless to observe that on proof of depositing the amount by the Petitioner no. 1 in the Family Court be produced on the next date.”

4. Perusal of record further shows that the additional affidavit is filed on behalf of Respondent No.2–Smt. Priya Pradeep Bhovad @ Jyostna Joshi stating therein that Petitioner No.1 had deposited an amount of Rs.3,00,000/- in the Family Court at Bandra in Marriage Petition No.A-1751 of 2020 on 16th September 2021 as and by way of permanent alimony mentioned in Clause 10 of consent terms. Photocopy of the receipt is annexed to the affidavit dated 21st September 2021.

5. Respondent No. 2 – Smt. Priya Pradeep Bhovad @ Jyostna Joshi is present before this Court by way of virtual mode along with learned counsel Ms. Sneha Kadam. On a query put to her, Respondent No.2 submitted before this Court that since consent terms are settled as per her will and wish, she has given free consent for withdrawal of allegations and further quashment of FIR lodged against 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. 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 against the Petitioner 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. 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 the aforesaid fact-situation, the continuation of prosecution of petitioners 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 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.

8. 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.

9. Petition is allowed in terms of prayer clause (a) and is disposed of accordingly.

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]