

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

WRIT PETITION NO. 3113 OF 2021

UMESH
SHRINIWAS
MALANI

Ujjwal Uttam Mali and Ors

...Petitioners

Versus

The State of Maharashtra & Anr

...Respondents

- Mr. Inderpal B. Singh a/w Ms. Geetal Chataule for the Petitioners.
- Mr. Asmit G. Dubey for Respondent No. 2.
- Ms. S.D. Shinde, APP, for the Respondent – State.

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

DATE : FEBRUARY 17, 2022.

PER COURT :

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

2. At the outset, learned Counsel appearing for Petitioners submits that present Petition was filed with the prayer of quashment of the FIR registered at Borivali Police Station for the offences punishable under Sections 498-A, 406, 420 read with 34 of IPC. During the pendency of Petition, the charge-sheet was filed by the investigating agency. Learned Counsel for

Petitioners submits that the Respondent No. 2 had filed an affidavit in this Court and parties have resolved their dispute amicably. Learned Counsel for Petitioners, thus, orally prayed for amendment to the Petition so as to incorporating the additional ground and consequential prayers on the backdrop of the fact that the charge-sheet is filed during the pendency of the Petition.

3. The oral prayer for amendment is allowed. The amendment to be carried out forthwith.

4. The report was lodged at the instance of Respondent No. 2 submitting that the Petitioner No. 1 and Respondent No. 2 were working as colleague in a private company. Their close association prompted them to result association in matrimonial relationship. Accordingly, the marriage between the Petitioner No. 1 and Respondent No. 2 was solemnized on 20th May, 2013. Then in short span of 3 years of the matrimonial life, the couple was facing discord though couple was blessed with a child. It may not be necessary for us to refer to the alleged act of ill-treatment, abuses etc. Being aggrieved by the act of the Petitioners, Respondent No.

2 lodged the report.

5. It is submitted to this Court that during the pendency of the Petition, parties have resolved their dispute amicably. Our attention was also invited to the order of this Court dated 14th October, 2021. It is submitted that in compliance of the order dated 14th October, 2021, the Respondent No. 2 has filed an affidavit in this Court.

6. Perusal of the documents placed on record annexed to the affidavit-in-reply show that there was parallel proceedings between the parties in Family Court, Bandra. The parties approached the Family Court for dissolution of marriage by mutual consent. Thus, it can safely be said that the parties have decided to part their ways and by leaving the past are willing to lead the future life peacefully without causing any interference in the life of each other. The terms of settlement include the sum of amount to be handed to the Respondent NO. 2 by Petitioner towards permanent alimony.

7. 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].

8. 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. 511/2018 registered at Borivali Police Station for commission of offences punishable under Sections 498-A, 406, 420 read with 34 of IPC and any other proceedings arising out the said FIR, are hereby quashed and set aside.

9. Rule made absolute in above terms.

(S.P. TAVADE, J.)

(PRASANNA B. VARALE, J.)