

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3440 OF 2021

Rohit Vijaykumar Dutt & Ors.

...Petitioners.

Versus

Mrs. Shivani Rohit Dutt & Another.

..Respondents.

Mr. R.V. Gupta, Advocate for the Petitioner.

Mr. Rohit Vaishya i/b Mishra A. Prem, Advocates for Respondent No. 1.

Ms. A.S. Pai, PP for the Respondent-State.

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

Date : April 22, 2022.

P. C. :

1. This petition is filed under Article 226 of the Constitution of India as well as Section 482 of the Code of Criminal Procedure, 1973 seeking to quash the proceedings of Criminal Case bearing C.C. No. 1639/PW/2017 pending on the file of Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. The said proceedings has arisen from FIR bearing Cr. No. 182/2017 registered with MIDC Police Station against the petitioners on the allegation of commission of offences punishable under section 498(A), 406, 323, 504 read with 34 of Indian Penal Code. The said FIR is registered at the instance of Respondent No. 1.

2. Petitioner No. 1 and Respondent No. 1 got married on 16th November, 2016 as per Hindu rites and customs. Rest of the petitioners are

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the relatives of Petitioner No. 1. Unfortunately, the marital ties does not survive for long and gave rise to multiple proceedings, civil as well as criminal and present proceeding is one of them.

3. Learned counsel appearing for the respective parties submitted that, pending trial of the above proceeding the parties have with the help of elderly persons in the family and well wishers amicably settled their disputes and arrived at settlement, and in view of the settlement arrived at, the present petition is filed for quashing of subject criminal proceeding with consent of Respondent No. 1, at whose instance the criminal law was put into motion at the instant case.

4. Respondent No. 1 has filed an affidavit dated 01st December, 2021, wherein she has stated that she is not interested in continuing with the criminal prosecution of the petitioners in the subject criminal case. She has further stated that they have decided to part their ways and therefore wish to put an end to all the disputes pending between them. She has solemnly affirmed that she is withdrawing all the allegations made against the petitioners in the said FIR/criminal proceedings and that she has no objection for quashing the FIR/criminal case bearing No. CC No. 1639/PW/2017 pending on the file of Metropolitan Magistrate, 22nd Court, Andheri, Mumbai.

5. On previous occasion, Respondent No. 1 was personally present before the Court. On specific query made by us on that day, 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 / criminal proceedings in question instituted at her instance against the the Petitioners for the offence punishable under sections 498(A), 406, 323, 504 read with 34 of Indian Penal Code, 1860.

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 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.

8. 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 he 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 the 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.

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 ultimately burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of prosecution of 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 subject criminal 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. Accordingly, writ petition is allowed in terms of prayer clause (i). No order as to costs.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]