

UMESH
SHRINIWAS
MALANI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 682 OF 2021

Digitally signed by
UMESH SHRINIWAS
MALANI
Date: 2022.01.06
09:56:16 +0530

Nitin Shyamsundar Kedia & Ors ...Applicants

Versus

The State of Maharashtra & Anr ...Respondents

Ms. Poonam Yadav i/by Sahil Mahajan for the Applicants.
Ms. Supriyanka Mourya i/by Santosh Adukia for Respndent
No. 2.

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

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

DATE : JANUARY 03, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

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

3. The Applicant no. 1 - Nitin Kedia and Respondent No. 2 - Nikita Kedia are present in this Court.

4. It is submitted before this Court that report

came to be lodged at the instance of Respondent No. 2 at Versova Police Station on 13.03.2021 against the applicants submitting them that the applicants have committed the acts in the nature of the offences under Sections 498-A, 323, 406, 504 read with Section 34 of IPC. It is then submitted that during the pendency of the criminal proceedings, parties particularly, the Applicant No. 1 – Nitin Kedia and Respondent No. 2 – Nikita Kedia thought it fit to part their ways on the mutual terms of agreement and this consent terms agreed between the parties be treated as consent terms for mutual consent divorce. The copy of the said consent terms is placed on record at page 24.

5. In the said consent terms it is stated that the parties are withdrawing all the allegations made against each other. It is also stated that though marriage between the Applicant no. 1 and Respondent No. 2 was solemnized on 13.06.2017, they are residing separately since 15.06.2020 and no issue is born out of the said wedlock till date. The Applicant No. 1 expressed his readiness and willingness to give Rs. 5,00,000/- to the Respondent No. 2 towards lump sum

alimony as full and final maintenance for past, present and future by way of demand draft drawn in favour of Respondent No. 2 on 06.08.2021. The copy of the said demand draft is also placed on record at page 26.

6. It is also stated that both the parties have agreed and undertake that there shall not have any interference in each other's life and they will not file any civil or criminal case in view of past matrimonial events.

7. In support of the consent terms, an affidavit on behalf of Respondent No. 2 is also placed on record at page 36. A following statement is made in the affidavit :

2. I say that we have amicably settled the matter. I say that I am filing the said Affidavit pursuant to settlement into between me and the present Applicants.

8. The Respondent No. 2 who is present in this Court on a query made by this Court submits that on her own willingness the terms of settlement are agreed.

9. At this place, it would apposite to refer to the decision of the 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 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."

10. 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].

11. 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 present case. The offence alleged cannot be said to have any impact on the society.

12. 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. 101/2021 registered at Varsova Police Station for commission of offences punishable under Sections 498-A, 323, 406, 504 read with 34 of IPC and any other proceedings arising out the said FIR, is hereby quashed

and set aside.

13. Rule made absolute in above terms.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)