

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4471 OF 2021

Vinayak Pankaj Shaw. ...Petitioner.
Versus
The State of Maharashtra & Another. ..Respondents.

Beerta H. Bajwa for the Petitioner.
Mrs. S. D. Shinde, APP for the Respondent-State.
Antu Chimathanwala for Respondent No. 2.

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.
Date : **February 3, 2022.**
[Through video conferencing.]

P. C. :

1. Heard learned counsel appearing for the respective parties.
The present writ petition is filed seeking to quash the proceedings of criminal case bearing CC No.773/PW/2020 pending on the file of Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The said proceeding is an outcome of the first information report (FIR) bearing CR. No.604 of 2019 registered with Dahisar Police Station at the instance of Respondent No.2 on the allegation of commission of offences punishable under sections 377, 498A, 406 and 504 of the Indian Penal Code, 1860.

2. The learned Counsel appearing for the respective parties submitted that during the on going trial of above criminal proceeding, with

the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, the instant petition is filed for quashing the above criminal proceeding by consent of original complainant - Respondent No.2 herein. Learned counsel further submitted that apart from the proceedings which are in question in the present petition, several other parallel proceedings were going on between the parties; and now the parties have decided to resolve their matrimonial disputes amicably. It is also submitted that as the better sense prevailed over the parties and the parties decided to part their ways peacefully, the decree of divorce by mutual consent has been sought.

3. Respondent No.2 has filed an affidavit dated 27th September 2021 in this Court, wherein she has stated that she is not interested in continuing with the criminal prosecution of the Petitioner in the subject criminal case. She has solemnly affirmed that she has no objection for quashing the proceedings of the criminal case against the Petitioner and has no objection if the petition for quashment is allowed.

4. Respondent No.2 is personally present before this Court by way of virtual mode of hearing. On specific query made by us, 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 criminal proceedings in question instituted at her instance against the Petitioner, being CC No. 773/PW/2021 pending on the file of Metropolitan Magistrate, 26th Court, Borivali, Mumbai.

5. 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. It can be also seen that 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 she has no objection if the FIR/proceeding in question is quashed.

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. 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 Petitioner 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 above 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.

8. In the light of 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. Accordingly, petition application is allowed in terms of prayer clause (A).

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]