

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4248 OF 2021

Archana Ajit Pol and others.

..Petitioners.

Versus

The State of Maharashtra & Others.

..Respondents.

Mr. Prashant D. Patil for the Petitioner.

Mr. K. V. Saste, APP for the Respondent-State.

Mr. Ragvendra Kulkarni 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 on behalf of the Petitioner as well as learned APP for the Respondent-State and learned counsel appearing on behalf of Respondent No.2. The Petitioners are before this court seeking quashment of the first information report (FIR) bearing No. 76 of 2020, dated 28th February 2020 registered at Kamothe Police Station on the allegation of commission of the offence punishable under section 498A read with 34 of the Indian Penal Code, 1860. The report is lodged at the instance of Respondent No.2. The investigating agency was set into motion after the lodgment of FIR and by completing the formality of investigation, the agency filed charge sheet in the competent Court. As such, the quashment of proceedings arising from the said crime, being Regular Criminal Case No. 484 of 2020 pending on

the file of JMFC, Panvel is also sought.

2. Perusal of the material placed on record shows that marriage between Petitioner No.3–Pravin and Respondent No.2-Deepali was solemnized on 28th April 2018 at Navi Mumbai by following the rituals and other wedding formalities. It seems that though for initial period, the parties were residing happily and peacefully, some time from the month of June 2018, Respondent No.2 was allegedly subjected to ill-treatment at the hands of the Petitioners on trivial grounds. She was subjected to allegation that she is not good at domestic work. It was also submitted in the FIR that Petitioner No.1, who is sister-in-law of Respondent No.2, is residing just adjacent to the house of Respondent No.2 and she was frequently visiting the matrimonial house of Respondent No.2; and on such visits, Petitioner No.2 used to instigate the other petitioners to ill-treat Respondent No.2 on some minor or flimsy grounds.

3. Learned counsel appearing on behalf of the Petitioner as well as learned counsel appearing on behalf of Respondent No.2 submitted that during the pendency of petition, there was parallel proceeding between the parties in the nature of hindu marriage petition and in that proceeding the parties have decided to resolve the dispute

amicably. It is also stated before this Court that there is no issue born out of the wedlock. A document under the caption "consent terms" between the parties is placed on record at Exhibit-A to the petition. It would be necessary to refer to certain terms in the said consent terms, namely, clause nos. 3 and 4, which read thus :

"3. I, Mrs. Deepali Pravin Dabade i.e., Respondent No. 2 agrees that I will support the prayers made in the aforesaid Criminal Writ Petition No. 4242 of 2021 for quashing of the proceedings of Regular Criminal Case No. 484 of 2020 arising out of FIR / Crime No. 76 of 2020 dated 28/02/2020 registered with the Kamothe Police Station, Kamothe, tal. Panvel, Dist. Raigad for the offences punishable under section 498A and 34 of the Indian Penal Code at my at my instance against all the Petitioners.

4. I, the Respondent No. 2 hereby agrees to execute the necessary affidavits/pleadings to dissolve our marriage by mutual consent in the proceedings of Hindu Marriage Petition No. 288 of 2020 pending the Civil Judge Senior Division, Panvel at Panvel instituted at the instance of the Petitioner no.3 and will convert the said HMP No. 288/2020 for divorce by mutual consent."

4. It is also admitted by Respondent No. 2 in the consent terms that all the streedhan given to her in marriage is in her custody and to that effect she has no dispute and she has assured that in future also she will not raise any dispute about the same. The consent terms are duly supported by placing on record the affidavit of Respondent No.2 at page no.85.

5. Respondent No.2 is present before this Court through

virtual mode along with her advocate. On a query put to her, 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 subject FIR and criminal proceedings instituted at her instance against the Petitioners for the offence punishable under sections 498A read with 34 of the Indian Penal Code, 1860.

6. It is submitted by the learned counsel appearing on behalf of the Petitioners that Petitioner No.1 is recently selected for the post in human resources department of one hospital in Uttar Pradesh. It is further submitted by learned counsel appearing on behalf of the Petitioners that even on bare perusal of FIR, it can be discerned that except the ambiguous and general allegations against Petitioners, there is absolutely no material to call for any action against the Petitioners for the alleged offence punishable under section 498A of IPC. It is then submitted by learned counsel appearing on behalf of the Petitioners that pendency of the subject criminal proceedings would be an hurdle in the service career of Petitioner No.1 and the same would put Petitioner No.1 to serious prejudice.

7. Considering the above referred facts and more particularly

the fact that Respondent No.2 has agreed to support the prayer made by the Petitioners for quashment of FIR and the consequent criminal proceedings, in our opinion, the continuation of the said criminal proceedings would be nothing but a futile exercise.

8. At this place, it would be apposite to refer to the pronouncement made by 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. 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].

9. 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.

10. 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 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 said criminal proceedings in order to secure the ends of justice.

11. 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. Accordingly, writ petition is allowed in terms of prayer clauses (a) and (b).

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]