

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

CRIMINAL WRIT PETITION NO.4136 OF 2021

1. Abhishek Kanaiyalal Panchal
2. Kanaiyalal Lilachand Panchal
3. Kalpana Kanaiyalal Panchal ...Petitioners

Versus

1. The State of Maharashtra
2. Asmita Abhishek Panchal ...Respondents

....

Mr. Jitesh Alwa with Ms Mukta Thapar for the Petitioners.
Mr. Priyam Sangre for Respondent No.2.
Mr. K.V. Saste, APP for Respondent No.1
Ms Asmita Panchal, Respondent No.2 present through VC mode.

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

ORDER DATED: 1st FEBRUARY, 2022.

P.C.:-

1. By this petition the Petitioners pray for quashment of the FIR being Crime No. 3 of 2021 dated 04/01/2021 registered at Kasarwadavli Police Station, Thane for the offences punishable under Sections 406, 323 498 A r/w 34 of IPC.

2. Respondent No.2 is the first informant and wife of the

Petitioner No.1. Respondent No.2 lodged a criminal complaint against the Petitioners alleging therein ill-treatment at the hands of the Petitioners. Respondent No.1 after completing the investigation has filed charge sheet No.116 of 2021 on 20/05/2021 in the court of Judicial Magistrate, First Class, Court No.2-Thane. Aforesaid FIR and charge sheet are sought to be quashed and set aside by the present proceedings.

3. We have heard learned counsel for the respective parties.

4. Learned counsel appearing for the Petitioners draws attention of this Court to the consent terms at Exhibit- 'G' to show that the dispute between the Petitioners and Respondent No.2 has already been settled whereby the complainant has waived her right of maintenance /permanent alimony against her husband -Abhishek Panchal for past, present and future, both the parties will not make any claim in respect of movable and immovable properties of each other and there was no exchange of articles pending between the parties as said process was completed before signing the consent terms. It is also agreed between the parties that both the parties will not interfere in any manner whatsoever, in each other's life in future. Learned counsel for the Petitioners thus prayed for quashing of the FIR in view of the consent terms.

5. Learned counsel for Respondent No.2 is not disputing the above referred facts and reiterated the prayer made by learned counsel for the Petitioners for quashing the FIR in question. The first informant was present in the Court by virtual mode of hearing and that she was identified by her counsel. On a query put to her she has stated that she has no objection if the FIR and charge sheet in question are quashed and set aside.

6. In the aforesaid backdrop after going through the contents of the FIR and in view of the settlement, we are of the opinion that no purpose would be served by asking the parties to face the trial and it would be a futility to continue with the trial.

7. At this juncture, it would be apposite to refer to the decision of 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 of IPC 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].

8. 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.

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 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 the 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 FIR and 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. Considering the above referred facts and particularly the willingness of parties and the terms agreed between the parties including a term that Respondent No.1 is not desirous to continue with the proceedings initiated at her instance on lodgment of FIR, the petition is allowed and thereby FIR being Crime No. 3 of 2021 dated 04/01/2021 registered at Kasarwadavli Police Station, Thane for the offences punishable under Sections 406, 323 498 A r/w 34 of IPC and charge sheet No.116 of 2021 are quashed and set aside.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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