

UMESH
SHRINIWAS
MALANI

Digitally signed by
UMESH SHRINIWAS
MALANI
Date: 2022.04.26
16:36:33 +0530

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

CRIMINAL APPLICATION NO. 985 OF 2021

Mohammed Mustafa Farook Dagli & Anr ...Applicants

Versus

The State of Maharashtra & Anr ...Respondents

- Mr. Tajamnul Usman i/by Capri Legal for Applicants.
- Mrs. S.D. Shinde, APP, for the Respondent – State.
- Mr. Mujahid H. Mulla for Respondent No. 2.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : FEBRUARY 16, 2022.

PER COURT :

1. Heard learned Counsel appearing for respective parties.

2. The present Application is filed in this Court seeking quashment of the proceedings bearing C.C. No. 1110/PW/2018 before the 56th Court of Learned Metropolitan Magistrate at Mazgaon (Sewri), Mumbai arising out of C.R. No. 90 of 2018 registered with Sir J.J. Marg Police Station for the offences punishable under Sections 498(A), 406, 506 read with 34 of the Indian Penal Code, 1860, at the instance of Respondent No. 2.

3. Applicant No. 1 and Respondent No. 2 are husband wife. Rest of the Applicants are relatives of Applicant No. 1 and in-laws of Respondent No. 2. Matrimonial disputes between the parties gave rise to the filing of criminal proceedings by the parties against one another and the subject matter of present Application is one of them.

4. The learned Counsel appearing for the respective parties submitted that during the pendency of investigation into above proceeding & on going trial of above criminal proceeding, with the help and intervention of elderly persons of family, 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 Application is filed for quashing the above criminal proceedings, by consent of original complainant - Respondent No. 2 herein.

5. Respondent No. 2 has filed an consent terms dated 05th January, 2022 wherein she has stated that she is not interested in continuing with the criminal prosecution of the Applicants in the subject criminal

case. She has solemnly affirmed that she is withdrawing all the allegations made against the the Applicants in the said criminal proceedings and that she has no objection for quashing the criminal case bearing C.C. No. 1110/PW/2018 before the 56th Court of Learned Metropolitan Magistrate at Mazgaon (Sewri), Mumbai arising out of C.R. No. 90 of 2018 registered with Sir. J.J. Marg Police Station for the offences punishable under Sections 498(A), 406, 506 read with 34 of the Indian Penal Code, 1860

6. Respondent No. 2 is personally present before the Court. On a specific query made by this Court to Respondent No. 2, she submitted that she has made the said consent terms on her own free will, without there being any pressure or coercion or undue influence. She has further confirmed that she has no objection for quashing criminal proceedings in question instituted at her instance against the Applicants.

7. 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 498 A 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."

8. 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 report, 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. Considering all these facts, the facts emerged from material placed before this Court is now that the parties have adopted an approach of forget and forgive and are desirous of leading peaceful future life.

11. As per the Applicants, 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 Applicants before the High Court was 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.

12. Accordingly, Criminal Application is allowed in terms of prayer clause 'b'.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)