

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3883 OF 2022

**SHRIKANT PARSHURAM BASARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.A.P.Avhad, Advocate for applicant
Mr.A.R.Kale, APP for respondent no.1
Mr.C.K.Shinde, Advocate h/f. Mr.T.C.Shinde, Advocate for respondent
no.2

**CORAM : SMT. ANUJA PRABHUDESSAI
AND R.M.JOSHI, JJ.
DATE : JANUARY 13, 2023**

ORDER :-

At the outset, learned counsel for the applicant seeks leave to amend the prayer clause (B) to incorporate R.C.C. No.74 of 2022, pending on the file of learned Judicial Magistrate, First Class, Ahmednagar.

2. Leave granted. Amendment be carried out forthwith.
3. This is an application under Section 482 of the Code of Criminal Procedure for quashing FIR No.I-199 of 2021 registered with Kotwali Police Station, Dist.Ahmednagar, for the offences punishable under Sections 323, 419, 420 and 498-A of Indian Penal Code so also

the criminal proceedings, i.e. R.C.C. No.74 of 2022, pending on the file of learned Judicial Magistrate, First Class, Ahmednagar.

4. Learned counsel for the applicant and learned counsel for respondent no.2 states that during pendency of this application, the parties have settled the dispute amicably. Respondent no.2 has filed her affidavit, wherein she has stated that the matrimonial dispute has been settled. Applicant no.1 - husband and respondent no.2 - wife have obtained divorce by mutual consent. Respondent no.2 has admitted that she has received permanent alimony of Rs.8,50,000/-.

5. Respondent no.2 is present before the Court. She confirms the contents of the affidavit and receipt of Rs.8,50,000/- as permanent alimony from the applicant – husband.

6. The Apex Court in ***B.S.Joshi vs. State of Haryana, 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 Paragraphs 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.”

7. Since the FIR is arising out of a matrimonial dispute and that the parties have settled the same amicably, in our considered view, the case in hand is covered by the judgment in the case of **B.S.Joshi** (cited supra). Thus, this is a fit case to invoke powers under Section 482 of the Code of Criminal Procedure.

8. Hence, the application is allowed in terms of prayer clause (B). Consequently, FIR No.I-199 of 2021 registered with Kotwali Police Station, Dist.Ahmednagar, for the offences punishable under Sections 323, 419, 420 and 498-A of Indian Penal Code so also criminal proceedings, i.e. R.C.C. No.74 of 2022, pending on the file of learned Judicial Magistrate, First Class, Ahmednagar, stand quashed.

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP