

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 5011 of 2023

Petitioner :- Goldi Maurya And Others

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home, Govt. Of U.P. Civil Sectt. Lko. And Others

Counsel for Petitioner :- Upendra Prakash Pathak

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the parties.
2. This Court has gone through the report sent by the Mediation and Conciliation Center of this Court dated 24.08.2023 and perused the settlement agreement between the parties.
3. It appears from the report that settlement has been arrived at between the parties, which is enclosed to the said report dated 28.08.2023 and the settlement agreement which is enclosed along with it.
4. The parties have mutually agreed to dissolve their marriage. They have filed a joint petition for divorce bearing R.S. No.1194 of 2023 under Section 13 of the Hindu Marriage Act, 1955 before Principal Judge, Family Court, Sitapur on 08.08.2023. The parties have agreed that the child borne out of the wedlock of Smt. Goldi Maurya and Mahendra Kumar will have no claim over the movable or immovable property of Mahendra Kumar. Smt. Goldi Maurya has also agreed not to claim any amount or property from Mahendra Kumar for herself or her child. She has also agreed that she will have no objections if Writ Petition No.5011 of 2023 is decided accordingly.
5. In view of the above, if the writ petition be allowed to proceed further then in that case no fruitful purpose will be served, hence, it is necessary in the interest of justice that the impugned F.I.R. be quashed.
6. Since both the parties to the dispute have arrived at a compromise, in such a situation, the Court has inherent jurisdiction to pass a suitable order as may be necessary to prevent the abuse of process of law to secure the ends of justice.

7. In the case of **B.S. Joshi and others vs. State of Haryana and others** [(2003) 4 SCC 675], the Hon'ble Supreme Court by discussing earlier decision has discussed the principles of ends of justice particularly in contexts with matrimonial dispute. Relevant paras of the judgment is reproduced below:-

"12) The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

13) The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad & Ors. [(2000) 3 SCC 693] are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

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. In case of **Jitendra Raghuvanshi and others vs. Babita Raghuvanshi and others** [2013 (4) ADJ 40]; Hon'ble Supreme Court has again reiterated the findings as laid down in the case of **B.S. Joshi (Supra)**.

9. In the case of **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another** [2012 CJ (SC) 896] in which the Apex Court has held in para 9 that if the cases are non compoundable under Section 320 Cr.P.C. even then the such a criminal matter can be quashed on the basis of mutual compromise where the chance of conviction is bleak. The relevant para 9 of the case is reproduced as under:

"9. On going through the factual details, earlier decision, various offences Under Section 320 of the Code and invocation of Section 482 of the Code, we fully concur with the said conclusion. In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the Appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present Appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power Under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the Appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present Appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power Under Section 482 of the Code even in offences which are not compoundable Under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power Under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law."

10. The Apex Court in the case of **Shiji @ Pappu and Ors. Vs. Radhika and another** [2011 CJ (SC) 239] has scrutinized the legal position in case of compromise in criminal cases in which the dispute was private in nature. In the matter of compromise continuation of proceeding will be sheer abuse of process of

law and in this context the technicality should not be allowed to stand in the way of quashing criminal proceeding. Although the power should be used by the court sparingly.

11. Since, parties of the dispute have amicably settled their dispute which arose due to matrimonial relation, in such a situation, it will be futile to engage them in further litigation. After getting relief from legal proceedings the parties may live their life peacefully. In present scenario, the chance of ultimate conviction is also bleak and therefore no useful purpose is likely to be served by allowing criminal proceeding against the petitioner. It may be sheer wastage of valuable time to Court also.

12. Accordingly, the writ petition is **allowed**.

Order Date :- 11.10.2023

Arnima