

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRM(M) No.88/2024

UMER MOHI-UD-DIN DAR & ORS ... PETITIONER(S)

Through: - Mr. Hamza Prince, Advocate.

Vs.

UT OF J&K & ORS. ...RESPONDENT(S)

*Through: - Mr. Mubashir Majid Malik, Dy. AG-for R1 to R4.
 Mr. Khalid Jahangir, Advocate-for R5.*

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

**ORDER (ORAL)
20.12.2024**

1) The petitioners, through the medium of present petition filed under Section 482 of the Cr. P.C, have challenged order dated 17.06.2023 passed by the learned Special Mobile Magistrate, Budgam, whereby, on an application under Section 156(3) of the Cr. P. C filed by respondent No.5, SHO P/S, Budgam, has been directed to lodge FIR against the petitioners under Sections 352 and 379 IPC. Challenge has also been thrown to order 31.01.2024, passed by the learned Additional Sessions Judge (Fast Track Court), Budgam, whereby, while rejecting the revision filed by the petitioners, the aforesaid order passed by the learned Magistrate has been upheld.

2) As per case of the petitioners, respondent No.5 was married to one Mehnaz, who happens to be the sister of petitioner No.1 and daughter of petitioner No.2, more than ten years ago and out of the said wedlock three children were born. It has been contended that after marriage, said Mehnaz

was being brutally tortured by respondent No.5 by inflicting physical, emotional and economic abuse. It is being contended that when no remorse or intentions to settle the issue came forth from respondent No.5, his wife, namely, Mehnaz was forced to file an application under the provisions of the Protection of Women from Domestic Violence Act, in which an interim order awarding maintenance in favour of wife of respondent No.5 was passed by the Judicial Magistrate 1st Class, Budgam.

3) According to the petitioners, respondent No.5 filed a frivolous complaint before the SHO concerned alleging therein that his wife and children had been forcibly taken away. The police conducted investigation but found that no offence had been committed and, accordingly, did not lodge any FIR against the petitioners. Respondent No.5 thereafter filed an application under Section 156(3) of Cr. P. C, on which a report was sought. The police concerned submitted its report stating therein that the petitioners have not committed any offence and, in fact, it is Mst. Mehnaz who has been the victim of grave crimes. It is contended that in the meanwhile, the Child Development Project Officer, Poshan Budgam (Protection Officer under Domestic Violence Act) also submitted the report which substantiated the stand of the wife of respondent No.5.

4) It has been contended that the learned Magistrate thereafter passed the impugned order 17.06.2023 directing registration of FIR against the petitioners under Section 352 and 379 of IPC, by ignoring the settled principles of law. The said order was challenged by the petitioners before the Revisional Court but the same was rejected in terms of impugned order dated 31.01.2024, hence the instant petition.

5) It seems that during pendency of the aforesaid proceedings, the parties have entered into a compromise. They have produced a copy of the compromise deed before this Court.

6) In support of the deed of compromise, the statements of petitioner No.1 and the complainant Hilal Ahmad Dar (respondent No.5 herein) have been recorded by the Registrar Judicial wherein they have stated that they have amicably settled their dispute and that they have no grievance against each other. It is in the above circumstances that the petitioners have approached this Court for seeking quashment of the impugned orders and the proceedings emanating therefrom.

7) Heard and considered.

8) So far as the fact pertaining to the compromise arrived at between the parties, is concerned, the same is not in dispute. The question arises as to whether this Court has power to quash the proceedings.

9) It is a settled law that the offences arising out of the disputes where the wrong is basically private or personal in nature like disputes arising out of matrimony and the parties have resolved their entire dispute, the High Court will be within its jurisdiction to quash the criminal proceedings, particularly when, as a consequence of the compromise arrived at between the parties, there is remote possibility of securing conviction of the accused. In my aforesaid view, I am fortified by the judgments of the Supreme Court in the cases of **Gian Singh. v. State of Punjab & another, (2012) 10 SCC 303** and **Narinder Singh & Ors. Vs. State of Punjab & anr, (2014) 6 SCC 466**.

10) Adverting to the facts of the instant case, it is clear that the parties have entered into a compromise wherein the complainant has categorically stated that she is not willing to pursue the proceedings and that the parties have settled their disputes amicably. It is also pertinent to mention here that the petitioner and the complainant are closely related to each other and the offences alleged exclusively arise out of matrimonial dispute between the complainant and her husband. In these circumstances, if an end is not put to the criminal proceedings, it would amount to giving a fresh lease of life to the dispute between close relatives which has been settled by them amicably. It will amount to frittering away of the fruits of compromise that has been arrived at between the parties. The continuance of criminal proceedings against the accused/petitioner in these circumstances, will be nothing but an abuse of process of law.

11) For the foregoing discussion, the petition is allowed and the impugned orders and the proceedings emanating therefrom against petitioners are quashed.

(Sanjay Dhar)
Judge

Srinagar
20.12.2024
“Bhat Altaf-Secy”

Whether the order is reportable: Yes/No