

+ CRL.M.C. 2669/2013

TEJWANT SINGH & ORS.

..... Petitioners

Through

Mr.Manjeet Singh, Adv. with

Mr.Jasvinder Singh,

versus

STATE & ANR.

..... Respondents

Through

Mr.Arun K. Sharma, APP for the State.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioners for quashing of FIR No. 352/2011 dated 11.10.2011, under Sections 498A/406/34 of IPC, 1860 registered at Police Station Tilak Nagar on the basis the settlement agreement arrived at between the complainant/respondent No.2, namely, Smt. Sapandeep Kaur and the petitioners, namely, Sh. Tejwant Singh (husband of the complainant), Sh. Varyam Singh (father-in-law of the complainant), Sh. Inder Singh (grand father-in-law of complainant), Smt. Balvinder Kaur (mother-in-law of the complainant), Sh. Jaswinder Singh (brother-in-law of the complainant) and Sh. Charanjeet Singh (brother-in-law of the complainant) in

Mediation and Conciliation Centre of this Court on 20.07.2015.

2. Respondent No.2 and Sh. Tejwant Singh (on behalf of all the other petitioners) have settled all their differences and disputes as recorded by the Mediation report filed on record dated 20.07.2015. Both the parties have agreed to withdraw the allegations made by them against each other and/or against the parents and relatives of each other. Respondent no.2 and petitioner no.1 have agreed to dissolve their marriage by obtaining a decree of divorce by filing joint petition. Petitioner no.1 has undertaken to bear all the expenses incurred in obtaining the decree of divorce and respondent no.2 has undertaken to cooperate with her husband/petitioner no.1 in getting the divorce by mutual consent. It is further agreed between the parties that the custody of the minor child namely, Baby Gurpreet Kaur shall remain with the father/petitioner no.1. Respondent no.2 shall have visitation rights. It is agreed that in addition of Rs.75,000/- already paid to the respondent no.2, an additional amount of Rs.2,00,000/- shall be paid to the respondent no.2 towards all the claims including istridhan, permanent alimony and maintenance past, present and future. A sum of Rs.50,000/- shall be paid at the time of recording first motion of divorce by way of cash or by demand draft in the name of respondent no.2 and a

sum of Rs.75,000/- shall be paid at the time of recording the second motion of divorce by way of cash or demand draft in name of respondent no.2. Another sum of Rs.75,000/- shall be paid at the time of quashing of the FIR in question. It is also agreed between the parties that respondent no.2 after receiving a sum of Rs.2,00,000/- will have no claim, right, title or interest in the properties owned and to be owned by the petitioners. As the dispute between the parties has been resolved, no useful purpose will be served in continuing the prosecution of the petitioners. Now no dispute with the petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end.

3. In *Gian Singh v. State of Punjab (2012) 10 SCC 303* Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

“61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to

quash the criminal proceedings.”

4. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in *Narinder Singh v. State of Punjab (2014) 6 SCC 466*. The relevant observations of the Apex Court in *Narinder Singh (Supra)* are as under:-

“**29.** In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the

guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

5. The Hon'ble Apex Court and this Court is of the considered opinion that the inherent powers under Section 482 Cr.P.C. are ought to be

exercised in the absence of express provisions of law to prevent the abuse of process of law and to secure the ends of justice. Matrimonial litigation is one of the cases where the dispute arises on small issues or differences at a particular point of time which culminates into the situation of entering into the litigation. These differences if not permitted to be sort out immediately or during the short tenure then it leads to the multiplicity of the litigation and makes the life of the family members/relatives as hell. This Court is of the considered opinion that in matrimonial disputes, the Court must exercise inherent power under Section 482 Cr.P.C. to secure the ends of justice and to avoid the abuse of process of law. When normally the litigation is being initiated, some non-compoundable offences are also alleged between the parties. Definitely, if the offences are compoundable and are covered under Section 320 Cr.P.C, then the parties could settle down the dispute and compound the offences, but due to the addition of non-compoundable offences, it becomes endless litigation despite settling down the matter between the parties and unnecessarily the litigation is being prolonged. In other words, it could be termed that the pendency of such a litigation tantamount to abuse of process of law. The High Court while exercising the inherent power to

secure the ends of justice ought to exercise its power to prevent the abuse of process of law and to secure the ends of justice. In other words, if the matrimonial disputes are being settled down, this Court is of the considered opinion that the High Court must exercise its inherent power and put an end to the litigation between the parties arisen on account of matrimonial dispute.

6. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

7. The Courts in India are now normally taking the view that endeavour should be taken to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs such as, matrimonial disputes between the couple or/and between the wife and her in-laws. India being a vast country naturally has large number of married persons

resulting into high numbers of matrimonial disputes due to differences in temperament, life-styles, opinions, thoughts etc. between such couples, due to which majority is coming to the Court to get redressal. In its 59th report, the Law Commission of India had emphasized that while dealing with disputes concerning the family, the Court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. Further it is also the constitutional mandate for speedy disposal of such disputes and to grant quick justice to the litigants. But, our Courts are already over burdened due to pendency of large number of cases because of which it becomes difficult for speedy disposal of matrimonial disputes alone. As the matrimonial disputes are mainly between the husband and the wife and personal matters are involved in such disputes, so, it requires conciliatory procedure to bring a settlement between them. Nowadays, mediation has played a very important role in settling the disputes, especially, matrimonial disputes and has yielded good results. The Court must exercise its inherent power under Section 482 Cr.P.C. to put an end to the matrimonial litigations at the earliest so that the parties can live peacefully.

8. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility and is a fit case for this Court to exercise its inherent jurisdiction.

9. In the facts and circumstances of this case and in view of statement made by the respondent No.2, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

10. Accordingly, this petition is allowed and FIR No. 352/2011 dated 11.10.2011, under Sections 498A/406/34 of IPC, 1860 registered at Police Station Tilak Nagar and the proceedings emanating therefrom are quashed against the petitioners.

11. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

OCTOBER 13, 2015
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