

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

1. Crl. Misc. No. M-33832 of 2013

Pushpender Singh and anr.Petitioners

versus

State of Haryana and anr. ...Respondents

2. Crl. Misc. No. M-34492 of 2013

Smt Parkash KaurPetitioner

versus

State of Haryana and anr. ...Respondents

Date of decision : 20.07.2016

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Vandana-complainant in person

Pushpender Singh
(husband of the complainant/petitioner No. 1) in person

ASI Murari Lal

RITU BAHRI, J. (Oral)

This order shall dispose of the above two petitions as common question of law and facts are involved in these petitions wherein prayer is for grant of anticipatory bail under Section 438 of Code of Criminal Procedure to the petitioners, in a case arising out of F.I.R No. 743 dated 05.09.2013, under Sections 498-A/406/354/342/34 IPC, registered at P.S. City, Gurgaon.

At the very outset, complainant and her husband i.e Pushpender

Singh who are present in the Court submits that they have compromised the matter and are living with each other for the last one year, as per compromise/agreement. Complainant has further submitted that she has no objection if the F.I.R be quashed against the petitioners. Parties have submitted to treat this petition under Section 482 Cr.P.C and quash the F.I.R against the petitioners.

This Court vide order dated 07.10.2013 in Crl. Misc. No. 33832 and 11.10.2013 in Crl. Misc. No. M-34492 granted anticipatory bail to the petitioners. Thereafter, petitioners joined the investigation and the interim orders are continuing till date, as there were chances of amicable settlement between the parties. Thereafter, matter was referred to Mediation and Conciliation Centre of this Court to enable the parties to amicably settle the dispute but all in vain. Today, parties appeared in the Court and filed compromise deed dated 20.07.2016 to the effect that that the complainant has compromised the matter with the accused persons and she has no grudge against the accused. Both the parties will withdraw the case pending against each other. Both the parties are living together happily since last one year and decided not to proceed further with any criminal/civil case against each other. The compromise is without any pressure, coercion, under influence and is with their sweet will. The compromise deed is taken on record as Annexure A-1. Complainant has given her Aadhar card and Petitioner No. 1-Husband has given his Driving License for verification.

The question for consideration before this Court that in petitions filed under Section 438 Cr.P.C, can this Court quash the F.I.R

treating the same under Section 482 Cr.P.C, on the ground that the matter stands compromised between the parties and the husband and wife started living together.

To answer this question, reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of ***B.S. Joshi & others vs. State of Haryana and another, 2003(2) R.C.R (Criminal) 888*** wherein it has been held that if the partners settled their dispute, the High Court can quash the proceedings in exercise of inherent power under Section 482 Cr.P.C etc. Sections 320 Cr.P.C does not limit the power under Section 482 Cr.P.C. It is the duty of the Court to encourage genuine settlement of matrimonial disputes. In para 11, 12, 13 and 14, it has been observed as under:-

11. In Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors. [(1988) 1 SCC 692], it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

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."*

Similar view has been expressed by Hon'ble the Supreme Court in a case of **Gian Singh vs. State of Punjab and anr., 2012 (4) RAJ 549**

wherein also it has been held that proceedings may be quashed having overwhelmingly and pre-dominatingly civil flavour such as offence arising from commercial financial, mercantile, civil, partnership or such like transaction or the offences arising out of matrimony relating to dowry etc of the family disputes where the wrong is basically private or personal in nature and the parties have resolve their entire dispute.

Keeping in view the above judgments and the fact that the matter stands compromised between the parties, the present petition be treated as a petition under Section 482 Cr.P.C and accordingly, F.I.R No. 743 dated 05.09.2013, under Sections 498-A/406/354/342/34 IPC, registered at P.S. City, Gurgaon, is quashed along with all consequential proceedings arising therefrom qua petitioners.

The petitions stand disposed of.

20.07.2016
G Arora

(RITU BAHRI)
JUDGE