

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37029 of 2015

Date of Decision: 25.07.2016

Kamalpreet Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.T.P.Singh, Advocate, for
Mr.S.S.Narula, Advocate, for the petitioner.

Mr.A.P.S.Gill, AAG Punjab.

Mr.Mandeep Kaushik, Advocate, for
Mr.Yogesh Goyal, Advocate, for the complainant.

RITU BAHRI, J. (ORAL)

This petition has been filed for grant of anticipatory bail to the petitioner in the case FIR No.92 dated 02.10.2015 for the offence under Sections 406-498-A, 323 IPC, Police Station, Women Cell, Ludhiana, Punjab.

The marriage of the petitioner was solemnized on 09.06.2013 with Kangandeep Kaur according to Sikh Rites where parents of the complainant had spent sufficient amount of money. One child was born on 12.04.2014. On 10.07.2014 as per allegations in the FIR, the complainant left her matrimonial house on account of harassment given by her in-laws.

On 30.10.2015, when notice of motion was issued in this case, counsel for the complainant had appeared before this Court and it was observed that being a pure matrimonial case there were chances of amicable settlement, the matter was referred to the Mediation and Conciliation Centre and it was ordered that no coercive action shall be initiated against the petitioner. During the

pendency of mediation between the parties, two months time was extended to compromise the matter but no amicable settlement had been arrived at between the parties in the mediation and conciliation centre. Ultimately, the dispute had been resolved between the parties by way of compromise deed dated 25.04.2016 which was signed by both the parties and the same was placed on the case file. It had been agreed between the parties that as per terms of the compromise, a petition under Section 13(B) of the Hindu Marriage Act for grant of decree of divorce will be filed and petitioner would pay an amount of Rs.8 lacs to the complainant as full and final settlement towards her future maintenance and alimony etc. The custody of minor child namely Gurliv Singh shall be given to the petitioner. After the custody of minor son, his maintenance shall be the sole responsibility of the petitioner and complainant shall claim no right regarding the custody of child. It was agreed that complainant shall withdraw all cases filed by her against the petitioner and his parents in different Courts including under the Domestic Violence Act and she has no objection if the FIR is quashed. It was further agreed that Rs.2 Lacs shall be paid by the petitioner to the complainant at the time of quashing of FIR.

Pursuant to the compromise, a petition under Section 13(B) has been filed on 06.05.2016 for decree of divorce on mutual consent. Counsel for the petitioner submits that out of Rs.8 Lacs, Rs.4 lacs have been paid to the complainant and rest of the amount will be paid at the time of statement on second motion of the petition filed under Section 13(B) of HMA.

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 filed a petition under Section 13(B) for

decree of divorce on mutual consent.

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. Section 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 XXA 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-dominantly 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, FIR No.92 dated 02.10.2015 for the offence under Sections 406-498-A, 323 IPC, Police Station, Women Cell, Ludhiana, Punjab is quashed along with all consequential proceedings arising therefrom qua the petitioners.

The petition stands disposed of accordingly.

(RITU BAHRI)
JUDGE

25.07.2016

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