

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 4195/2015**

Date of Decision : March 16th, 2016

LOKESH KUMAR CHHIBBER & ORS Petitioners

Through: Mr. Kapil Singhal, Mr. Hemant Sain,
Advocates

versus

STATE (NCT OF DELHI) & ORS Respondents

Through: Mr. Mukesh Kumar, Additional
Public Prosecutor for the State with
Sub-Inspector Kishmender, PS Seema
Puri, Delhi.

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, namely, Sh. Lokesh Kumar Chhibber and Smt. Mamta Kalia for quashing of FIR No.361/2002 dated 04.04.2002, under Sections 498A/406/34 IPC registered at Police Station Seemapuri on the basis of the mediation report, Delhi Mediation Centre, Karkadooma Courts, Delhi in view of the settlement arrived at between the petitioner no.1 and respondent No.2, namely, Smt. Anshu Chhibber on 07.08.2013.

2. Learned Additional Public Prosecutor for respondent-State submitted that the respondent No.2, present in the Court has been identified to be the complainant/first-informant of the FIR in question

by SI Kishmender.

3. The factual matrix of the present case is that the marriage between petitioner no.1 and the respondent no.2 was solemnized on 10.05.1992 as per Hindu rites and ceremonies. After four months of the marriage all the accused persons i.e. the husband, parents-in-law, brother-in-law and sister-in-law of the complainant started taunting her for the dowry articles. The complainant told about the same to her parents and they changed the car, colour T.V. and double bed as per the wishes of her in-laws. Thereafter, the complainant gave birth to a boy and the accused persons started to demand goods from and the sister-in-law of the complainant used to instigate the husband of the complainant on which he used to beat up the complainant. The husband of the complainant wanted to purchase one Maruti Van for which he used to insist the complainant to ask her parents for Rs. 50,000/-. On 31.10.2002, the sister-in-law of the complainant asked her to give her all the jewellery articles and when she refused, all the accused persons started to beat her up.

The respondent no.2/complainant lodged the FIR in question against the petitioners. The petitioner no.1 filed a petition under Section 13 (1)(ia)(ib), (2)(iii) of HMA for grant of divorce but the matter was referred to the mediation cell. The parties to the present case, arrived at an amicable settlement at the mediation cell and resolved all their disputes.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the mediation report, it is agreed that petitioner no.1 and respondent no.2

shall take divorce by mutual consent. It is also agreed that petitioner no.1 shall pay an amount of Rs. 10 Lacs to respondent no.2 towards the full and final settlement of all the claims of respondent no.2 arising out of the marriage including stridhan, dowry articles, permanent alimony and maintenance (past, present and future). It is agreed that the agreed amount shall be paid in the form of four installments of Rs. 2.5 Lacs each. It is agreed that Rs. 2.5 Lacs shall be paid by petitioner no.1 to respondent no.2 at the time of withdrawal of revision petition on 22.08.2013 in the form of DD/cash to be given to the respondent no.2. It is agreed that Rs. 2.5 Lacs shall be paid by way of FDR in the name of Sanjana Chhibber at the time of recording of statement during the first motion petition which shall be filed in the second week of September, 2013. It is agreed that Rs. 2.5 Lacs shall be paid by way of FDR in the name of second daughter, Vani Chhibber at the time of recording of statement during the second motion petition. It is agreed that Rs. 2.5 Lacs shall be paid by way of FDR in the name of son Krishna Chhibber under the guardianship of respondent no.2 at the time of quashing of the proceedings arising from the FIR in question. It is also agreed that respondent no.2 shall be the nominee in all three above-mentioned FDRs. It is also agreed that the present matter shall be withdrawn by the petitioner no.1 at the time of recording of the statement in first motion divorce petition. It is also agreed that the custody of all the three children shall remain with their mother/respondent no.2 and that the petitioner no.1 shall have visitation rights on the first and third Sunday of every month in the presence of their mother/respondent no.2. It is also agreed that the

respondent no.2 or the children shall not claim any right in the property of the petitioner no.1. It is also agreed that there is no case/complaint filed by or pending between the parties or their family members in respect of the matrimonial dispute. It is also agreed that the parties shall not file any case/complaint against each other in the future. Respondent No.2 affirmed the contents of the aforesaid settlement and of her affidavit dated 24.07.2015 supporting this petition. As per the affidavit filed by respondent no.2, she has settled all her disputes with the petitioners and has no objection if the FIR in question is quashed. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end. Statement of the respondent No.2 has been recorded in this regard in which she stated that she has entered into a compromise with the petitioners and has settled all the disputes with them. She further stated that she has no objection if the FIR in question is quashed.

5. 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.”

6. 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.

7. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no.2 agrees to the quashing of the FIR in question without any threat or coercion or undue influence and has stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

8. 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.

9. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of *State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors.* MANU/SC/0842/2014 and in the case of *Inder Singh Goswami v. State of Uttaranchal* MANU/SC/0808/2009 has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of *B.S.*

Joshi and others v. State of Haryana and another 2003 (4) SCC 675
the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 498A IPC is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

11. *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.

12. 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.

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

14. Accordingly, this petition is allowed and FIR No.361/2002 dated 04.04.2002, under Sections 498A/406/34 IPC registered at Police Station Seemapuri and the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 16, 2016
dd

