

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

+ CRL.M.C. 4624/2015

Date of Decision : February 12th, 2016

DAMANPREET SINGH & ORS Petitioner

Through: Mr.G.B.Sewak, Adv.

versus

STATE (NCT OF DELHI) & ANR

..... Respondent

Through: Mr.G.M.Farooqui, APP.

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. Damanpreet Singh, Sh. Ravinder Singh, Smt. Daljeet Kaur and Sh. Amanpreet Singh for quashing of FIR No.372/2011 dated 24.10.2011, under Sections 498A/406/34 IPC registered at Police Station Tilak Nagar on the basis of the Memorandum of Understanding ("MOU") arrived at between the petitioner no.1 and respondent No.2, namely, Smt. Gurbinder Kaur on 30.03.2015.

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, PS Tilak Nagar.

3. The factual matrix of the present case is that the marriage between the petitioner no.1 and the respondent no.2 was solemnized on 18.10.2008 as per Sikh rites and ceremonies. The husband and the in-laws of the complainant made her life hell and the complainant was not able to live peacefully at her matrimonial home and they used to cause mental torture and harassment to the complainant. On the very first day after marriage, the complainant was made to remove all her jewellery by her husband, mother-in-law and mami. The in-laws of the complainant taunted her everyday that her parents did not give them articles as per their expectations. On 20.10.2008, the complainant went for her honeymoon, where her husband again abused her badly. The complainant was not permitted to talk to anyone. One day, the husband of the complainant dropped her at her parental home to demand more dowry and on repeated calls by the complainant also, he did not come to take her back. The brother-in-law of the complainant, namely, Amanpreet Singh also used to harass the complainant by demanding a diamond breslate. Later on, the

complainant became pregnant and her in-laws asked her to abort the child as they did not have the expenses. When the complainant refused to do the same, her in-laws completely ignored her and her health. On 10.07.2010, the complainant gave birth to a female child and she was thus tortured by her in-laws. On 08.10.2010, the parents and other family elders of the complainant visited the office of her father-in-law but the father-in-law of the complainant told them to take their daughter away and not send her back until their dowry demands including a Honda Accord car are met. One day, the mother-in-law of the complainant forcefully pulled her hair and the husband of the complainant gave her blows and kicks in the stomach. The father-in-law of the complainant snatched her daughter and slapped the complainant and hit her towards the wall. Thereafter, the parents of the complainant made a complaint in the Tilak Nagar, PS after which the complainant went with her parents as her in-law's refused to take her with them. All the valuables and istridhan of the complainant remained in the possession of her in-laws.

The respondent no.2 on 05.08.2011 lodged a complaint against the petitioners in CAW Cell, Delhi and consequently, the FIR in

question was registered. The parties filed several other cases i.e. divorce, Section 12 D.V.Act, Section 125 Cr.P.C., Section 25 GW Act, Execution Petition, appeals, revision etc. against each other. Thereafter, with the intervention of the elders and other respectable persons of the society, the petitioner no.1 and respondent no.2 arrived at an amicable settlement.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties. As per the MOU, it has been agreed between the parties that they shall file for a divorce by way of mutual consent. It is agreed that petitioner no.1 shall pay a sum of Rs.15,00,000/- to respondent no.2 towards full and final settlement of all her claims regarding maintenance- past, present, future, istridhan, jewellery, alimony, dowry articles, etc. in respect of their marriage. That the settlement amount of Rs. 15,00,000/- would be paid in four installments as specified in the MOU itself. It is agreed that respondent no. 2 shall withdraw the cases under Section 125 Cr.P.C., Section 12 of D.V. Act, Section 25 GW Act and Criminal Revision Petition(in this Court) filed by respondent no. 2 against the petitioner no.1 and his family members. It is agreed that petitioner no.1 shall

withdraw the cases filed by him against respondent no.2 immediately after respondent no.2 withdraws the cases filed by her against petitioner no.1 and his family members. It is also agreed that respondent no.2 shall give no-objection to the permanent release of passport of petitioner no.1 deposited in the concerned Court. It is agreed that petitioner no.1 has already deposited the dowry articles as per the admitted list in Police Station Tilak Nagar in compliance of order dated 28.09.2012 passed by the Court of Ms. Colette Rashmi Kujur, MM (Mahila Court-02) West, Tis Hazari Courts, Delhi and the respondent no. 2 shall be at the liberty to receive the same. It is agreed that petitioner no.1 shall give no-objection to the release of the aforesaid articles, if required. It is further agreed that the permanent custody of the daughter named Sifatpreet Kaur shall remain with the petitioner no.1 and that respondent no.2 shall not have any visitation rights and respondent no.2 shall never initiate any legal proceedings in any Court of law/Authority/ Forum to enforce any such right(s) in this regard. It is also agreed that the petitioner no.1 shall return whatever original documents i.e. testimonials etc., of respondent no.2 which are available with him. It is agreed that after the aforesaid

settlement, both parties shall be left with no claims whatsoever against each other of any nature and they shall be free to live their lives independently without any interference of each other. It is also agreed that the parties shall not claim or demand any share, right, title or interest in each other's any other movable or immovable properties owned or to be owned by them or their family member in future. It is further agreed that the parties have mutually resolved all their issues and undertake not to initiate/file any disputes/complaints/claims/cases etc. before any Court/Forum/Authority etc. against each other or their family members, relatives, etc. ever. Respondent No.2 affirms the contents of the aforesaid settlement and of her affidavit dated 02.11.2015 supporting this petition. In the affidavit, the respondent no.2 has stated that she 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.372/2011 dated 24.10.2011, under Sections 498A/406/34 IPC registered at Police Station Tilak Nagar the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

FEBRUARY 12, 2016
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