

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34168 of 2015
Date of Decision: 25.04.2017

Savita and others

...Petitioners

VERSUS

State of Haryana and anr.

...Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr.Vishal Sharma, Advocate, for the petitioners.

Ms.Mahima Yashpal, AAG, Haryana.

Complainant in person.

RITU BAHRI, J. (Oral)

The prayer in the instant petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in FIR No.728 dated 28.10.2014 registered under Sections 332, 353, 186, 34 IPC, registered at Police Station City Jagadhari, District Yamuna Nagar.

During the pendency of the present petition, parties have entered into the amicable settlement and in terms of the settlement, petitioner-Savita has taken a decision to give the custody of minor child to her husband Rajat Singhal and other conditions of the compromise have been reduced into writing have been signed by both the parties. Aditya-minor child has been handed over to the husband-Rajat Singhal in Court today and he has taken the custody of minor child Aditya in the presence of his father Rakesh Mohan Singhal who will support his son through out his future.

Keeping in view the compromise effected between the parties, interim bail granted vide order dated 06.10.2015 is made absolute.

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

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 Chandojirao 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 do wry. 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.728 dated 28.10.2014 registered under Sections 332, 353, 186, 34 IPC, registered at Police Station City Jagadhari, District Yamuna Nagar, is quashed along with all consequential proceedings arising therefrom qua petitioners.

The petitions stand disposed of.

25.04.2017
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>