

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3635-2014

Date of Decision: 30.5.2017

Sartaj

....Petitioner.

Versus

State of Union Territory

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.**

PRESENT: Mr. IPS Bains, Advocate for the petitioner.

Mr. Manoj Sharma, Advocate for
Mr. Sukant Gupta, APP for UT, Chandigarh.

Mr. Munish Behl, Advocate for the complainant.

AJAY KUMAR MITTAL, J.

1. The revisionist-petitioner was convicted for an offence under Section 498-A of the Indian Penal Code (IPC) and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹ 2000/-, in default of payment of fine to further undergo rigorous imprisonment for a period of one month by the Judicial Magistrate Ist Class, Chandigarh vide judgment and order dated 14.8.2012. However, the petitioner was acquitted of the charge under Section 406 IPC by the trial Court. Against the said judgment of conviction and order of awarding sentence, the petitioner filed an appeal before the Additional Sessions Judge-cum-Special Court, Chandigarh, who vide judgment dated 30.10.2014 while dismissing the appeal upheld the conviction and sentence

of the accused-petitioner. Feeling aggrieved by the said judgment, the petitioner has filed the present revision petition.

2. A few facts necessary for adjudication of the instant revision petition may be noticed. Complainant Anita Rani made a complaint dated 25.11.2005 to the Police of Police Station, Sector 3, Chandigarh against Sartaj Rana (petitioner herein), Smt. Hardai, Smt. Kushal and Vijay Laxmi with the allegations that her marriage with the petitioner was solemnized on 18.10.1996 at Chandigarh according to Hindu rites and her parents had spent approximately ₹ 6 lakhs on her marriage and also incurred expenses on other dowry articles. After the marriage, the said persons started taunting her and raised a demand of kothi at Chandigarh and a Government job for the petitioner. On 20.8.1997, a girl child was born by way of cesarian operation and she remained in the hospital but neither her husband nor her in-laws came to Chandigarh to see the child despite the information given to them. In the year 1998, when the petitioner left Sarabhai and joined Inter Set Vet at Hisar, he never came to Chandigarh from 1998 to 2001 and also dropped her calls and when he had a talk with her on telephone, he always repeated the demands of Kothi at Chandigarh. On coming to know that the demise of Neeraj, the cousin brother of the petitioner, the complainant went to village Ucha Pind Sanghol and remained there for 14 days. During the stay, she had to accept abuses and filthy language and taunting every day. Despite the death of her father-in-law in April, 1997, her husband repeated the same demand time and again, but she tolerated everything just for the sake of her daughter with the hope that the things would improve by the passage of time. Further, when she called the petitioner to join her for few days to get their child admitted in the school as

the parents were required for interview, he flatly refused to do so. In the year 2004, when her mother-in-law was to be operated at Ahuja Hospital, she stayed there for five days for her help and her mother-in-law was very happy over her services but she immediately got changed and started taunting her at the instance of her sister-in-law and the wife of brother of her husband. When the engagement of her brother was done and the marriage was fixed for 21.1.2005, her husband was invited but he flatly refused to attend the same. On 5.11.2005, the petitioner called her on telephone and used filthy language and threatened to ruin her life and her parents. On the basis of the said complaint, FIR No. 8 dated 9.1.2006, under Sections 406/498-A IPC, at Police Station Sector 3, Chandigarh was registered. The petitioner was arrested and the statements of the witnesses were recorded. After completion of investigation, the challan was presented against the petitioner under Sections 406/498-A IPC in the trial Court. The petitioner was charge sheeted for the offences under Sections 406/498-A IPC to which he pleaded not guilty and claimed trial.

3. In support of its case, the prosecution examined as many as seven witnesses, namely, PW-1 Constable Surjit Singh, PW2 complainant-Anita Rani, PW3 Jaina Nath Lambardar of village Sanghol, PW4 HC Tara Chand, PW5 Jaswant Singh, PW6 SI (Retd.) Mohinder Singh and PW7 Satbir Singh. The statement of the petitioner under Section 313 of the Code of Criminal Procedure was recorded. He had not led any defence evidence in his support. The trial Court on the basis of the evidence led by the prosecution, acquitted the petitioner under Section 406 of IPC and convicted under Section 498-A IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹ 2000/-, in

default of payment of fine to further undergo rigorous imprisonment for one month vide judgment and order dated 14.8.2012. Feeling aggrieved by the judgment and order dated 14.8.2012, the petitioner filed an appeal before the Additional Sessions Judge-cum-Judge, Special Court, Chandigarh who vide order dated 30.10.2014 dismissed the appeal. Hence, the present revision petition.

4. We have heard learned counsel for the parties and perused the record.

5. Petitioner-Sartaj filed a petition under Section 13 of the Hindu Marriage Act, 1955 (in short “the Act”) before the trial Court against his wife, Anita for dissolution of marriage by a decree of divorce. The trial Court vide judgment and decree dated 24.4.2008 dismissed the said petition. Against the judgment and decree dated 24.4.2008, the petitioner has preferred FAO-M-133-2008. The matrimonial dispute between Sartaj and his wife Anita has been amicably settled. In fact, a compromise deed was entered into between Sartaj and his wife Anita. In terms thereof, it was submitted by the counsel appearing for the revision-petitioner and counsel for the complainant that both the parties have agreed to obtain divorce by mutual consent. As per the settlement, Anita had received a sum of ₹ 15 lakhs and expressed no objection for allowing the criminal revision filed by Sartaj so that a decree of divorce by mutual consent could be obtained by Sartaj and Anita. Learned counsel for UT, Chandigarh submitted that based on the complaint lodged by the complainant-Anita, accused Sartaj faced trial for the charges framed under Sections 406/498-A IPC. The trial Court while acquitting the accused under Section 406 IPC, convicted the revision-petitioner under Section 498-A IPC. The Appellate Court also confirmed the

conviction and sentence passed by the trial Court. We find that the matrimonial dispute was the source for lodging the complaint under Sections 406/498-A IPC by the complainant. Both the parties have arrived at a settlement which is reflected in the settlement deed produced in FAO-M-133-2008. Complainant-Anita expressed no objection for the criminal revision to be allowed by the Court to facilitate them to obtain divorce by mutual consent.

6. This Court in **Veeran Rani and others v. State of Punjab, 2006(2) RCR (Criminal) 348** while relying upon the judgment of the Apex Court in **B.S. Joshi v. State of Haryana (2003) 4 SCC 675**, the proceedings in the FIR related to non-compoundable offences arising out of matrimonial dispute was quashed on the basis of amicable settlement between the parties. It reads thus:-

“6. The Apex Court in **B.S. Joshi's case (supra)** in paras 13 to 15 has observed as under:-

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.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

7. In view of the above, this petition is allowed and FIR No. 98 dated 11.7.2002, registered under Sections 498-A/406/506 of Indian Penal Code, at Police Station City, Ferozepur is quashed.”

7. Further, the Apex Court in **Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another (2013) 4 SCC 58** had observed as under:-

“14. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In **B.S. Joshi (supra)**, this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have

quashed the criminal proceedings by accepting the settlement arrived at.

15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that

allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.

17. In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code. Under these circumstances, we set aside the impugned judgment of the High Court dated 04.07.2012 passed in *Rajendra Singh Raghuvanshi v. Aarkshi Kendra Police Mahila Thana* and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore.”

8. It is evident from the record that the matter has been amicably settled between the parties. As per settlement, the parties have filed a joint

petition under Section 13B of the Act for dissolution of their marriage, in which they have made their respective statements in FAO-M-133-2008.

9. When the parties have settled their matrimonial dispute, we do not propose to stand in the way of the parties to obtain a divorce by mutual consent. If the revision is decided on merits, the parties may not be able to obtain a decree of divorce by mutual consent, inspite of the compromise entered into by them, resolving their matrimonial dispute amicably. Quashing of the proceedings initiated by the complainant which culminated in conviction under Section 498-A IPC is necessitated in order to pave way for the parties to reap the benefit of amicable settlement of the matrimonial dispute between accused Sartaj and Anita.

10. In view of the above consideration, the facts and circumstances of the present case and taking a lenient view, the criminal proceedings arising out of FIR No.8 dated 9.1.2006, under Sections 496/498-A IPC, registered at Police Station Sector 3, Chandigarh including the judgment of conviction and order of sentence dated 14.8.2012 as well as the judgment dated 30.10.2014 of the appellate Court upholding the conviction and sentence emanating therefrom are quashed/set aside to facilitate the parties to arrive at amicable settlement of their matrimonial dispute.

11. The revision is disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

May 30, 2017
gbs

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No