

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5970 OF 2017

- 1) Syed Rahil @ Azhar s/o Syed Moinuddin,
Age 27 years, Occupation Pvt. Service,
- 2) Mumtaz Begum w/o Syed Moinuddin,
Age 50 years, Occupation Household,
- 3) Syed Moinuddin s/o Syed Qaiseruddin,
Age 55 years, Occupation Service,
- 4) Saba Firdos d/o Syed Moinuddin,
Age 22 years, Occupation Student,
R/o. Plot No.70, Arif Colony,
Aurangabad. .. Applicants.

VS.

- 1) The State of Maharashtra,
Through P. I., Begumpura Police
Station, Aurangabad.
- 2) Heena Parveen w/o Syed Rahil @ Azhar,
Age 21 years, Occupation Household,
R/o. H.No.3-11-1621, Indra Nagar,
Baijipura, Aurangabad. .. Respondents

Ms. Fatema S. Kazi, Advocate for applicants.

Mr. D. R. Kale, Additional Public Prosecutor for respondent
No. 1 / State.

Mr. Moinuddin N. Shaikh, Advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.
DATE : 14-03-2018**

ORAL JUDGMENT (Per Smt. Vibha Kankanwadi. J.)

1. Rule. Rule made returnable forthwith with the consent of learned counsels for the parties, the application is heard finally.

2. The applicants have invoked the powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report (Hereinafter referred as 'FIR') bearing No. 0204 of 2017 dated 24-09-2017 registered with Begumpura Police Station, Aurangabad for the offence punishable under Section 498-A, 323, 504, 506 read with 34 of the Indian Penal Code and Section 3, 4 of Dowry Prohibition Act.

3. It is not in dispute that, the applicant No.1 got married with respondent No.2 on 14-08-2016. Applicants No.2 and 3 are the parents of applicant No.1. Applicant No.4 is sister of applicant No.1 i.e. daughter of applicants No.2 and 3.

4. Respondent No.2 had filed report with the Police Station stating that, at the time of marriage her father had given 3 ½ Tolas gold ornaments, Rs.25,000/- and domestic articles. After marriage she went to cohabit with applicant No.1. She has stated that, she was treated properly for about two months only after the marriage, but thereafter she was harassed by all the applicants. Applicant No.1 is serving in a medical store. All the applicants were asking her to bring amount of Rs.2,00,000/- from her parents to open the

medical store for applicant No.1. She was unable to fulfill the demand, and therefore, she was driven out of the house. She was told her that, if she would bring amount of Rs.2,00,000/- then only they will allow her to cohabit. Thereafter, the informant had lodged the FIR.

5. The applicants have contended that, applicant No.1 and respondent No.2 are young. They had some differences which were converted into quarrels and respondent No.2 went to her father's house, and then lodged the FIR in anger. However, they have now resolved to bring an end to all the disputes between them. Respondent No.2 joined company of applicant No.1 and both are cohabiting happily. In view of amicable settlement, it is stated that, the informant has no desire to go ahead with the report and she has no objection to quash the proceedings. The applicants have therefore prayed for quashing the FIR filed against them.

6. The affidavit-in-reply has been filed by respondent No.2 giving no objection.

7. It is to be noted that, the applicant No.1 and respondent No.2 are husband and wife. There was dispute between them but due to the differences various proceedings have been filed by them against each other. Now it appears that, their dispute has been resolved and they are residing together happily. Therefore, when

they have resolved their dispute, we find this to be a fit case where we should exercise the inherent powers of this Court. Reliance can be placed on *M/s. Shakuntala Sawhney V. Mrs. Kaushalya Sawhney and Ors.*, MANU/SC/0532/1979 : [1979] 3 SCR 639, wherein Hon'ble Krishna Iyer, J. has summarized the essence of compromise in the following words:

"The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.

37. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice."

38. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

39. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by

exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation."

8. Further reliance can be placed on *Gian Singh Vs. State of Punjab and Another* [2012 SCC (10) 303], wherein it is observed that,

"However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R. if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

9. Therefore, taking into consideration the observations

since the FIR is arising out of matrimonial dispute and now the dispute is settled, the application deserves to be allowed. Couple want to lead a happy married life, therefore it will be in the interest of justice to quash the FIR. Hence, following order :-

ORDER

- 1) Application is hereby allowed.
- 2) Rule is made absolute in terms of prayer Clause-'B'.

(SMT. VIBHA KANKANWADI)
JUDGE

(PRASANNA B. VARALE)
JUDGE

vjg/-.