

Amrit Pal Singh Sangha and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE B. S.WALIA

Present: Mr. Deepak Gupta, Advocate for the petitioners.
Mr. Ashok S. Chaudhary, Addl. AG. Haryana.
Mr. Vikas Garg, Advocate for the complainant.

B. S.WALIA, J. (ORAL)

1. Prayer is for quashing of FIR No. 1153 dated 17.10.2016 registered under Sections 323, 34, 498-A, 506 IPC at Police Station Gurugram, Sadar, District- Gurugram (Annexure P-1), on the basis of compromise dated 14.07.2017 (Annexure P-2) entered into between petitioner No. 1 and respondent No. 2 before the Mediation and Conciliation Centre of this Court in Mediation Case No. 1011 of 2017 in CRM No. M-46291 of 2016.

2. Pursuant to the settlement/compromise arrived at between the parties i.e. Annexure P-2, this Court, vide order dated 12.03.2018 directed statements of the parties to be recorded by the Ld. Trial Court / Illaqa Magistrate. Report regarding genuineness of the compromise along with the statements of the parties has been forwarded by the Court of the Learned Additional Chief Judicial Magistrate, Gurugram through the Learned Additional District and Sessions Judge, Gurugram. The report inter alia

mentions that the parties have compromised the matter voluntarily without any pressure or coercion, the compromise is genuine and without any pressure or undue influence and that out of 5 accused named in the FIR, accused Khushdeep Kaur has been exonerated by the Investigating Agency in the final report and as per record none of the accused is a proclaimed offender. Copy of the settlement/compromise deed as also the report submitted by the Additional Chief Judicial Magistrate, Gurugram through the District and Sessions Judge, Gurugram, is taken on record and shall form part of this order.

3. Learned counsel for the respondent-complainant states that parties have compromised the matter and that in terms of the compromise the parties filed for and have been granted divorce under Section 13-B of the Hindu Marriage Act, besides the entire amount i.e. Rs. 15,50,000/- towards permanent alimony and maintenance agreed to be paid by petitioner No. 1 to respondent No. 2 has already been paid and in the circumstances the complainant has no objection if FIR No.1153 dated 17.10.2016 under Sections 323, 34, 498-A, 506 IPC registered against the petitioners at Police Station Gurugram, Sadar, District- Gurugram (Annexure P-1) and all proceedings connected in respect thereto are quashed.

4. Hon'ble Supreme Court in case titled Jitendra Raghuvanshi & Ors. v. Babita Raghuvanshi & Anr. {Criminal Appeal No. 447 of 2013, (Arising out of S.L.P. (Cri.) No. 6462 of 2012)} and B.S. Joshi and Others v. State of Haryana and Anr. reported as (2003) 4 SCC 675 are judgments in support of the proposition for quashing of FIR in such like cases as the same would be in the ends of Justice. Relevant extract of the decision by the Hon'ble Supreme Court in B.S. Joshi v. State of Haryana, (2003) 4 SCC

675, is as under:-

"2. The question that falls for determination in the instant case is about the ambit of the inherent powers of the High Courts under section 482 of the Code of Criminal Procedure (the Code) read with Articles 226 and 227 of the Constitution of India to quash criminal proceedings. The scope and ambit of power under Section 482 has been examined by this Court in a catena of earlier decisions but in the present case that is required to be considered in relation to matrimonial disputes. The matrimonial disputes of the kind in the present case have been on considerable increase in recent times resulting in filing of complaints by the wife under Sections 498A and 406 I.P.C. not only against the husband but his other family members also. When such matters are resolved either by the wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof both sides approach the High Court and jointly pray for quashing of the criminal proceedings or the first information report or complaint filed by the wife under Sections 498A and 406 I.P.C., can the prayer be declined on the ground that since the offences are non-compoundable under Section 320 of the Code, therefore, it is not permissible for the court to quash the criminal proceedings or FIR or complaint.

10. In State of Karnataka v. L. Muniswamy considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and

implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline' to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has to be in the "negative". It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.

11. In Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre 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 are 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, (2000) 3 SCC 693 are very apt for determining the approach required to be kept in view in a 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 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A 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 hypertechnical view would be counterproductive 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 XX-A of the 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.

16. For the foregoing reasons, we set aside the impugned judgment and allow the appeal and quash the FIR above mentioned."

5. I have heard learned counsel for the parties besides respondent No. 2 who is present in person and is identified by learned counsel for respondent No. 2. Instant petition for quashing of the FIR has been filed in terms of paragraph No. 8 (iv) of the Compromise Annexure P-2. Respondent No. 2 states that she executed the compromise out of her own free will and has no objection if the FIR and all connected proceedings in respect thereto are quashed. Learned Additional Advocate General has also not opposed the prayer of the petitioners for quashing of FIR No. 1153 dated 17.10.2016 registered under Sections 323, 34, 498-A, 506 IPC at Police Station Gurugram, Sadar, District- Gurugram (Annexure P-1) as also all connected proceedings in respect thereto, in view of compromise dated 14.07.2017 (Annexure P-2) entered into between the parties before the Mediation and Conciliation Centre of this Court in Mediation Case No. 1011 of 2017 in CRM No. M-46291 of 2016, statement of respondent No. 2 as well as the report submitted by the Additional Chief Judicial Magistrate, Gurugram through the District and Sessions Judge, Gurugram, as well as law laid down by Hon'ble the Supreme Court as referred to above.

6. In view of the position as noted above i.e. of petitioner No. 1 and respondent No. 2 having decided to part company amicably so as to move on in life and not get bogged down in unending litigation so as to rob them of their youth as also of chances of ultimate conviction in the aforementioned FIR being bleak, divorce having been granted to petitioner No. 1 and respondent No. 2, entire payment of permanent alimony and maintenance agreed to be paid having been paid by petitioner No. 1 to respondent No. 2, respondent No. 2 not wanting to pursue FIR No. 1153 dated 17.10.2016 under Sections 323, 34, 498-A, 506 IPC registered at

Police Station Gurugram, Sadar, District- Gurugram (Annexure P-1) any further in order to have peace of mind and to settle down in life, no useful purpose would be served by allowing the criminal prosecution to continue. Rather non-exercise of the inherent powers vested in this Court to quash the proceedings would prevent petitioner No. 1 and respondent No. 2 from settling down in life afresh earlier. Accordingly, FIR No. 1153 dated 17.10.2016 under Sections 323, 34, 498-A, 506 IPC registered at Police Station Gurugram, Sadar, District- Gurugram (Annexure P-1) and all proceedings connected in respect thereto, are liable to be quashed and are accordingly quashed.

7. Petition is allowed in the aforementioned terms.

April 23, 2018
Jyoti-IV

(B. S.WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No