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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 5th August, 2019

+ CRL.M.C. 400/2019

JATINDER SINGH ANAND & ORS. Petitioner
Through: Mr. Satyam Thareja, Adv.

versus

STATE & ANR. Respondents
Through: Ms. Meenakshi Chauhan, APP
for the State with W/SI Radha
Sharma, PS CWC Nanak Pura.
Mr. Aditya Singla & Mr. Pallav
Gupta, Advs. for R-2 with R-2
in person.

+ CRL.M.C. 401/2019

JATINDER SINGH ANAND & ORS. Petitioners
Through: Mr. Satyam Thareja, Adv.

versus

STATE & ANR. Respondents
Through: Ms. Meenakshi Chauhan, APP
for the State with SI Parvesh
Lamba, PS South Campus.
Mr. Aditya Singla & Mr. Pallav
Gupta, Advs. for R-2 with R-2
in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The second respondent in these petitions was married to the first petitioner, common to both the matters, as per Sikh Rites and Ceremonies on 08.09.2013. The marriage ran into rough weather, the second respondent raised allegations of she having been subjected to cruelty and deprived of her valuable articles on her complaint, first information report (FIR) no. 276/2015 (first case) having been registered by police station South Campus on 20.05.2015 involving offences punishable under Sections 506/509/34 of Indian Penal Code, 1860 (IPC). Subsequently, on her complaint another FIR no. 94/2015 (second case) was registered on 02.09.2015 with police station CWC, Nanak Pura, the case involving offences punishable under Sections 498A/406/34 IPC. The first case is directed against the husband, his brother-in-law, his uncle and his father (first to fourth petitioners respectively in Crl.M.C. 400/2019) while the second FIR was directed against the husband, his father, his mother, brother-in-law and his sisters (first to sixth petitioners in Crl.M.C. 401/2019).
2. The parties, however, were persuaded to enter into an amicable settlement through the process of mediation and executed a formal settlement deed on 24.05.2018 in Delhi Mediation Centre, Tis Hazari Courts, Delhi. The present petitions have been filed invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to bring an end to the aforementioned two criminal cases on such basis.

3. The second respondent on being served with notice has entered appearance through counsel. On being directed, she has submitted her affidavits sworn on 12.07.2019 which have been placed on file of each of the petitions, copies of her voter identity card having been submitted therewith as proof of identity. The second respondent through the said affidavits, and also in person at the hearing, has confirmed that she has settled the matter amicably on the terms set out in the settlement agreement dated 24.05.2018, a copy whereof has been filed in each of these matters.

4. In terms of the above-mentioned settlement agreement, the marriage of the first petitioner and the second respondent has been dissolved by the Family Court for West District by judgment and decree dated 17.01.2019 passed in HMA No. 34/2019, a copy whereof has been submitted and kept on record.

5. As per the settlement agreement, the second respondent is to receive from the first petitioner, who is obliged to pay to her a total amount of Rs. Ten lakhs as full and final settlement of all her claims, on all counts including *stridhan* and permanent alimony. It was submitted on the last date of hearing that pursuant to order dated 07.05.2016 of the court of Sessions on an anticipatory bail application, in the context of second above-mentioned case i.e. FIR no. 94/2015, a fixed deposit receipt (FDR) in the sum of Rs. ten lakhs had been deposited by the first petitioner. It is the agreement between the parties that the said FIR would be released to the second respondent for satisfaction of her claim under the above-mentioned agreement.

6. Some confusion had prevailed on the last date as to the compliance with the above-mentioned condition in the anticipatory bail order, neither the investigating agency nor the parties being clear as to where such FDR had been deposited. A report dated 02.08.2019 from the Metropolitan Magistrate, Mahila Court-01, South West District, Dwarka District Courts, New Delhi has been received and confirms that FDR bearing no. 67362290542 dated 13.05.2016, for an amount of Rs. ten lakhs drawn on State Bank of Travancore Branch at Tilak Nagar, New Delhi is lying on the file of the Metropolitan Magistrate in the case arising out of FIR no. 94/2015.

7. The second respondent has the liberty to approach the concerned Metropolitan Magistrate with appropriate application upon which the FDR mentioned above shall be released to her.

8. Pertinent to note here that offence under Section 498A IPC is not compoundable. The parties are constrained to move this court for quashing on the basis of amicable resolution arrived at by them in the facts and circumstances noted above.

9. The scope and ambit of the power conferred on this court by Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) read with Articles 226 and 227 of the Constitution of India, in the particular context of prayer for quashing criminal proceedings, has been the subject matter of scrutiny and comment by the Supreme Court in a catena of judgments. It is well settled that in exercise of this “*inherent*” and “*wholesome power*”, the touchstone is as to whether “*the ends of justice so require*”. This court had the occasion to trace the relevant law on the subject in a batch of matters led by *Yashpal*

Chaudhrani vs. State (Govt. of NCT Delhi), 2019 SCC Online Del 8179 wherein after taking note, *inter alia*, of *State of Karnataka v. L Muniswamy*, (1977) 2 SCC 699; *State of Karnataka v. M. Devendrappa*, (2002) 3 SCC 89; *B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675; *Gian Singh Vs. State of Punjab and Anr.* (2012) 10 SCC 303; *Jitendra Raghuvanshi v. Babita Raghuvanshi*, (2013) 4 SCC 58; *K Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226; *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466; *State of Rajasthan v. Shambhu Kewat*, (2014) 4 SCC 149; *Parbhatbhai Aahir Parbatbhai Bhimsinhbhai Kurmur*, (2017) 9 SCC 641 and *State of Madhya Pradesh v. Laxmi Narayan and others*, (2019) 5 SCC 688; the broad principles were culled out as under :-

“55. Though the above-noted authoritative pronouncements of the Supreme Court have consistently laid down the broad principles governing the exercise of power of the High Court under Section 482 of the Cr. PC for bringing an end to the criminal process, for addressing the concerns noted at the outset and future guidance of trial courts, some of the crucial ones may be flagged as under:—

(i). The inherent jurisdiction vested in the High Court, as recognized and preserved by Section 482 Cr. PC, is primarily to “prevent abuse of the process of court” or to “otherwise secure the ends of justice”.

(ii). The ends of justice are higher than the ends of mere law, the prime principle governing the exercise of inherent power being “to do real, complete and substantial justice” for which the court exists.

(iii) *It is the duty of the court to give “adequate treatment to the settlement between the parties” particularly in cases involving compoundable offences, the exercise of inherent power of the High Court under Section 482 Cr.P.C., however, not being inhibited in case of non-compoundable offences though, for the latter category, such power is to be “exercised sparingly and with caution”.*

(iv). *If the criminal case has “overwhelmingly and predominantly civil character”, particularly if it arises out of “commercial” (financial, mercantile, partnership or such other) transaction - and this would include the “cheque bouncing cases” under Section 138 N.I. Act - or “matrimonial dispute” or “family dispute”, genuine resolution on equitable terms, in entirety, by the parties should result in criminal proceedings being quashed.*

(v). *Since the institution of marriage has an important role to play in the society, the court is to make every effort to encourage the parties to terminate such discord amicably and if it appears that elements of settlement exist, and the parties are willing, they are to be directed to the process of mediation to explore the possibility of settlement, it being desirable to do so even at the “pre-litigation stage”.*

(vi). *While examining the prayer for quashing of a non compoundable offence, on the basis of settlement of the dispute between the wrongful doer and the victim, the High Court is to bear in mind as to whether the possibility of conviction is “remote and oblique” and further, if the continuation of the*

criminal case would lead to “oppression and prejudice” or “extreme injustice” for the accused.

(vii). The considerations which would weigh with Court include the antecedents of the accused, possible lack of bona fides, his past conduct and that includes the question as to whether he had earlier absconded and as to how he had managed with the complainant to enter into a compromise.

(viii). But, the High Court, when called upon to exercise the power under Section 482 Cr. PC to bring the criminal case to an end on the basis of settlement, must steer clear of intervention in “heinous” or “serious” offences, including those involving “mental depravity”, as indeed “economic offences” affecting “the financial and economic well being of the State”, such as murder, attempt to murder, extortion, forgery, rape, dacoity, financial or economic frauds, cases under Arms Act, etc., the reason being that such offences are “not private in nature” but have “a serious impact upon society”, and continuation of trial thereof is essential due to “overriding element of public interest”.

(ix). The court, however, is not to go by mere use of label of a serious offence (e.g. offence under Section 307 IPC), it being open to it to examine, by scrutiny of the evidence gathered, to find as to whether there are sufficient grounds to frame charge for such offence and, in this view, it being “not permissible” to intervene till the matter has been properly investigated.”

10. In a case where criminal proceedings arise essentially out of *matrimonial* dispute and the parties have decided to bury the hatchet, the court must examine if there is any likelihood of the criminal prosecution resulting in conviction. In fact-situation wherein the matrimonial relation has been brought to an end by mutual consent and the parties are eager to move on with their respective lives seeking closure and if there is nothing to indicate lack of *bonafide* on the part of any side, denial of the prayer for quashing the criminal case would restore acrimony rather than bring about peace. Allowing continuance of the criminal action would be fruitless and clearly an abuse of judicial process.

11. The cases at hand pass the muster of the above-noted tests.

12. In the above facts and circumstances, the petitions are allowed. The crimes registered by the police vide FIR No. 276/2015 under Sections 506/509/34 IPC of police station South Campus and vide FIR No. 94/2015 under Sections 498A/406/34 IPC of Police Station CWC Nanak Pura and the proceedings emanating therefrom against the petitioners are hereby quashed.

13. The petitions are disposed of accordingly.

14. *Dasti* under the signatures of Court Master to both sides.

R.K.GAUBA, J.

AUGUST 05, 2019

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