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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 25th July, 2019

+ CRL.M.C. 876/2019

HONEY TULI & ORS. Petitioners
Through: Ms. Manish Bhandari, Advocate with
petitioners in person.

versus

STATE OF NCT OF DELHI & ORS. Respondents
Through: Ms. Kusum Dhalla, APP for the State
with SI Anil Kumar, PS Dwarka
North.
Mr. Kishore M. Gajaria, Adv. with
Mr. Aayush Paranjpe, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The third respondent was married to the first petitioner as per Hindu rites and ceremonies on 25.11.2003 and, from out of the said wedlock two children, both daughters, took birth. The third respondent by her complaint submitted in May, 2016, however, leveled certain allegations including of cruelty on the part of the husband and other relatives, this having led to registration of first information report (FIR) No.270/2016 by Police Station Dwarka, North for investigation into offence under section 498-A of the Indian Penal Code, 1860 (IPC). It appears that in the course of investigation, offences under

sections 323/354/498A/34 IPC were also taken note of and investigation was carried out on said lines.

2. The status report dated 25.03.2019 of SHO Police Station Dwarka North indicates that the investigation has since been concluded and a report (charge sheet) under section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was presented, on which the concerned Metropolitan Magistrate took cognizance and issued process. The said criminal case is directed against the husband (first petitioner), his brother (second petitioner), wife of the said brother (third petitioner), his mother (fourth petitioner) and cousin brother of the third respondent herself (fifth petitioner).

3. It is stated that with the intervention of certain elders in the family and other well-wishers, the parties resolved to end the dispute amicably and in terms of the same the third respondent has agreed and rejoined the husband and rest of the matrimonial family. It is further stated that she has been living happily with the husband and other members of the family since March 2018. On the basis of this settlement, the present petition was brought before this court invoking the inherent jurisdiction of this court under section 482 Cr.P.C. for the criminal case to be brought to an end.

4. The third respondent has sworn an affidavit on 15.02.2019 which has been filed, whereby she confirms the above background facts and also the settlement to her satisfaction, she having resumed cohabitation with the husband and having returned to the matrimonial family where she is living happily, there being no further dispute.

5. The above facts are confirmed orally as well by the third respondent, who is present in person with her counsel Mr. Kishore M. Gajaria. On being asked she has shown to the court her *adhaar card* as proof of her identity, self-attested copy thereof being taken on record. It is confirmed that aside from the case mentioned above, there is no other litigation involving the parties.

6. 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.

7. 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.”

8. 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.

9. The case at hand passes the muster of the above-noted tests.

10. In the above facts and circumstances, the petition is allowed. The crime registered by the police vide FIR No.270/2016, under Sections 498-A/323/354/34 IPC of Police Station Dwarka North and the proceedings emanating therefrom against the petitioners are hereby quashed.

11. The petition and the application filed therewith are disposed of accordingly.

Dasti to both sides.

R.K.GAUBA, J.

JULY 25, 2019

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