

CRM-M-42534-2020

Date of Decision: 11.02.2021

Suresh

...Petitioner

vs.

Union Territory, Chandigarh and another

...Respondents

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Vivek Kathuria, Advocate for the petitioner.

Ms. Vasundhra Dalal Anand, APP for UT Chandigarh.

Mr. Ashish Bakshi, Advocate for respondent No.2.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.52 dated 19.06.2020, registered under Section 406, 498-A IPC, 1860, at Police Station Women Police Station, Chandigarh, along with all consequential proceedings emanating therefrom, on the basis of compromise, Annexure P/2 dated 09.11.2020.

3. Learned counsel contends that marriage of the petitioner and respondent No.2 was solemnized at Chandigarh on 02.03.2014, there is no offspring from the wedlock and due to temperamental differences between the parties, matrimonial dispute arose, leading to registration of the aforementioned FIR at the behest of respondent No.2/complainant.

4. Learned counsel contends that now with the intervention of well-wishers of both the parties, the petitioner and respondent No.2 have entered into a compromise/settlement, Annexure P/2, dated 09.11.2020 and

decided to end litigation and part ways amicably and in pursuance thereto,

the parties have also filed a petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act, before the Court of the learned District Judge, Chandigarh, in which, first motion has been recorded and the case is now listed before the learned District Judge, Chandigarh, on 06.07.2021, for second motion.

5. Vide order dated 11.01.2021, the parties were directed to appear before the learned trial Court/Duty Magistrate, for recording of their statements, in view of compromise, Annexure P/2 dated 09.11.2020. Pursuant thereto, report No.23 dated 02.02.2021, has been received from the learned Judicial Magistrate 1st Class, Chandigarh, stating that the compromise arrived at between the parties is without any pressure or coercion from any corner, besides respondent No.2/complainant has also stated that she has no objection if FIR No.52 dated 19.06.2020, registered under Section 406, 498-A IPC, 1860, at Police Station Women Police Station, Chandigarh, along with consequential proceedings emanating therefrom, is quashed against the petitioner, on the basis of compromise, Annexure P/2 dated 09.11.2020. The report further mentions that as per the report of the Investigating Officer, ASI, Sanjiv Kumar, there is only accused i.e. Suresh Kumar and one complainant/victim namely Pinky and that the accused is not involved in any other case nor has been declared a proclaimed offender in any proceeding.

6. I have heard learned counsel for the parties and gone through the record.

7. Learned counsel for the parties are ad-idem vis-à-vis the mutual settlement of the dispute by way of compromise Annexure P/2, dated

09.11.2020.

8. Accordingly, in view of compromise, Annexure P/2 dated 09.11.2020, report of the learned Judicial Magistrate 1st Class, Chandigarh, I am of the considered view that no useful purpose would be served by keeping the criminal prosecution pending. Reference in this context can be made to the decision of Hon'ble the Supreme Court in **B.S. Joshi and others vs. State of Haryana and another 2003 (2) RCR (Criminal) 888**, Relevant extract of the decision in B.S. Joshi's case (supra) is reproduced as under:-

10.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 disputed 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 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. Answer clearly has to be in '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 bonafides.

11. In Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors. [(1998) 1 SCC 692], 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 the 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. Sections 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 XX-A 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. 16. For the foregoing reasons, we set aside the impugned judgment and allow the appeal and quash the FIR above mentioned.”

9. In the light of the position as noted above, particularly of the parties having settled the dispute amicably, consequentially, the chances of conviction in such eventuality being remote, as also to enable them to move on in life, I am of the considered view that it would be in the ends of justice that FIR No.52 dated 19.06.2020, registered under Section 406, 498-A IPC, 1860, at Police Station Women Police Station, Chandigarh, as well as all consequential proceedings arising therefrom, are quashed. Accordingly, the petition is allowed, and FIR No.52 dated 19.06.2020, registered under Section 406, 498-A IPC, 1860, at Police Station Women Police Station, Chandigarh, as well as all consequential proceedings arising therefrom, are quashed.

(B.S. Walia)
Judge

11.02.2021

‘Rajesh-PS’