



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 57 OF 2024

1. Pravin Ramlallu Tiwari,
Age 40 years, Occ. Business,

2. Urmila R. Tiwari,
Age 60 years, Occ. Housewife,

Both r/o. Plot No. 437/291/21
Lane 8, Near University Campus,
New Futala Nagpur

..... **APPLICANTS**

...VERSUS...

1. State of Maharashtra,
through PSO, Gittikhadan
Nagpur, District Nagpur,

2. Mrs. Kirti w/o. Pravin Tiwari,
Aged 35 yrs, Occ. Service,
R/o. 113, Narmada Society,
Yogendra Nagar, Nagpur

.... **NON-APPLICANTS**

Ms. Padma M. Chandekar, counsel for applicants,
Ms. N.P. Mehta, Addl.GP for non-applicant No. 1,
Ms. Nikita Patil, counsel for non-applicant No. 2.

CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.

DATE : 19.03.2024

JUDGMENT (Per: Abhay J. Mantri, J.)

With consent, heard finally at the stage of admission.

2. The applicants have invoked extraordinary jurisdiction of this Court under Section 482 of the Criminal Procedure Code (for short - the “*Code*”) to quash and set aside criminal proceedings bearing Regular Criminal Case (RCC) No. 4939/2022, pending on the file of 10th Judicial Magistrate First Class, Nagpur, emanating from First Information Report (FIR) No. 465/2022, registered at Gittikhadan Police Station, Nagpur, for offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code (IPC).

3. Consciously, the facts of the case are as under:

(a) The marriage of applicant No. 1 and Non-applicant No. 2 was solemnized on 05.05.2005 at Rewa, out of this wedlock, they are having two issues namely Master Sanskar, aged 16 years, and daughter namely Miss. Aastha,

aged 14 years. Applicant No. 2 is the mother-in-law of non-applicant No. 2. Since there was a rift in the matrimonial ties between applicant No. 1 and non-applicant No. 2, non-applicant No.2 left the house of applicants in June 2020 and have been residing separately. Due to strained relations between the husband and the wife, they have filed various cases against each other.

(b) On 07.08.2022, non-applicant No. 2 lodged an FIR against the applicants alleging that they have subjected her to physical and mental cruelty for non-fulfillment of unlawful demands. She has also claimed that due to ill-treatment at the hands of the applicants, she left her matrimonial house in June 2020. Based on these allegations, the aforesaid crime came to be registered.

(c) On completion of the investigation, respondent No. 1 filed a chargesheet bearing No. 168/2022 which came to be registered as RCC No. 4939/2022 which is pending before the learned 10th J.M.F.C., Nagpur.

(d) It further appears that applicant No. 1 and non-applicant No. 2 have filed petitions against each other. Such as

a divorce petition bearing No. D Petition 17/2023 and E-Petition No. 154/2020 before the Family Court, Nagpur. After the intervention of the learned Judge of the Family Court, applicant No. 1 and non-applicant No. 2 settled their dispute amicably on 11.12.2023. Accordingly, both have mutually agreed to resolve their marriage by mutual consent as well as they agreed to settle the disputes between them and execute a consent deed before the Family Court in that regard. In paragraph No. 5 of the consent deed, non-applicant No. 2 categorically agreed to cooperate with applicants to quash RCC No. 4939/2022. Pursuant to the settlement between the parties and the terms and conditions, the applicants have filed a present application for quashing the criminal proceedings.

4. On 18.03.2024, non-applicant No. 2 appeared in person and as per her request Ms. Nikita Patil, the counsel was appointed to assist her. On 19.03.2024, non-applicant No. 2 has filed an affidavit. We would like to quote paragraph Nos. 3 to 5 of the affidavit, as under:

“3. It is humbly submitted that Applicant No. 1 and Non-applicant No. 2 have successfully resolved the marital disputes through mediation before the Hon’ble Family Court Judge. The mutual agreement resulted in the issuance of a decree of mutual divorce on 20.12.2023. The applicants and non-applicant No. 2 have reached an amicable settlement, wherein they have resolved all matters pertaining to the divorce.

4. It is humbly submitted that the applicants and non-applicant No. 2 have amicably settled their dispute and the non-applicant is not having any objection if the present matter is allowed. She is in agreement with the quashing of the First Information Report dated 7.8.2022 filed against the applicants.

5. It is further submitted that non-applicant no. 2 waives objections and consents to the quashing, acknowledging that it aligns with their mutual understanding and dispute resolution. Non-applicant no. 2 assures that her statement is voluntary and in good faith, and requests the authorities to consider this affidavit as a testament to the mutual agreement and proceed with the quashing of the FIR against the applicants”.

Applicant No. 1 for himself and his mother and non-applicant 2 appeared before the Court and urged for quashing RCC No. 4939/2022. Likewise, learned APP Ms. N.P. Mehta, for non-applicant No. 1 and learned counsel Ms. Nikita Patil for

non-applicant No. 2 have urged that in view of the settlement between the parties, this Court has ample power to quash the proceedings under Section 482 of the Code. We are satisfied that the settlement is Voluntary and genuine.

5. Learned counsel for the applicants in support of his submissions relies on the judgment in the case of *Gian Singh v. State of Punjab and Anr*, reported in *2012 Cr. L.J. 4934 (Gian Singh)* and submits that in view of the dictum laid down in it, this Court has inherent powers to quash the criminal proceedings.

6. We have appreciated the submissions advanced by learned counsel for the parties and considered the facts of the case, perused the judgment as referred above.

7. Having considered the aforesaid facts, the crucial question that falls for determination in the instant application is about the ambit and scope of inherent powers of this Court under Section 482 of the Code in quashing the criminal

proceeding in non-compoundable offences relating to the matrimonial dispute. It is pertinent to note that the Hon'ble Apex Court in catena of judgments has explained the scope and ambit powers of this Court.

8. It is not in dispute that matrimonial disputes have been on considerable increase in recent times resulting in the filing of complaints under Section 498-A of IPC, not only against the husband but also against the relatives of the husband. The question is when such matters are resolved either by the wife agreeing to rejoin the matrimonial home or by the mutual settlement of other pending disputes for which both sides approached the High Court and jointly prayed for quashing the criminal proceedings filed by the wife under Section 498A IPC, whether the prayer can be declined on the sole ground that since offences are not compoundable under Section 320 of the Code, it would be impermissible for the Court to quash the criminal proceeding or FIR or complaint.

9. It is also not in dispute that in the case on hand subsequent to the filing of the complaint u/s 498-A IPC, with the help and intervention of a learned Judge of the Family Court, the parties concerned have amicably settled their differences and executed Consent Deed/settlement before the Family Court. Pursuant to the terms and conditions in paragraph 5 of the Consent deed, the applicants have filed this application.

10. It is also not in dispute that in addition to the mutual settlement arrived at by the parties, non-applicant No. 2 wife has appeared before this Court and has also filed an affidavit supporting the claim of the applicants as stated in paragraphs 3 to 5 of the affidavits. The averment in paragraphs 3 to 5 clearly denotes that non-applicant No. 2 did not wish to pursue the criminal proceedings and fully supported the consent of the Consent/settlement Deed.

11. Reliance is placed on the judgment in the case of *B.S. Joshi Vs. State of Haryana (AIR 2003 SCC 1386)*. It is not

in dispute that the facts in the case of ***B.S. Joshi*** are identical and the nature of the offence and the question of law involved is almost similar to the case in hand. A perusal of the application reveals that the application filed by the applicants is not for the compounding of non-compoundable offences but to quash the criminal proceedings.

12. In our view, it is the duty of the Courts to encourage genuine settlement of matrimonial disputes, particularly, when the same are on considerable increase day in and day out. It is to be noted that even if offences are non-compoundable if they relate to matrimonial disputes, and the Court is satisfied that the parties have settled the same amicably and without any pressure, *Moreover*, to secure ends of justice, the Court should hold that provisions under Section 320 would not be a bar to exercise of the power of quashing of FIR/complaint or the subsequent criminal proceedings.

13. *Besides*, the powers under Section 482 of the Code should be exercised sparingly and with circumspection only

when the Court is convinced, on the basis of material on record that allowing the proceedings to continue would be an abuse of process of the Court or that the ends of justice require that the proceedings ought to be quashed.

14. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law, in order to do complete justice in the matrimonial matters, the Court should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that, the power under Section 482 of the Code should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of Court or that the ends of justice require that the

proceedings ought to be quashed.

15. Having considered the nature of the accusation, the affidavit of non-applicant No. 2 thereby giving no objection to allow the application. Also, she is in agreement with the quashing of the FIR and the Proceeding filed in pursuance of it. Furthermore, the fact that the parties have now decided to put to an end their strained relationship and move on with life, we are of the opinion that this is a fit case to exercise inherent power conferred under Section 482 of the Code to meet the ends justice. Accordingly, we answer the question in the affirmative. In view of the discussion above, we deem it appropriate to allow the application in terms of prayer clause (a), which reads thus:

a) *“To quash the Criminal Proceeding No. 4939/2022 pending before learned 10th J.M.F.C. Nagpur, further quash proceeding in FIR bearing No. 465/2022 filed on 7.8.2022 registered by non-applicant No. 1 under Section 498-A, 323, 504, 506, 34 of I.P.C. in the interest of justice.”*

16. Consequently, Regular Criminal Case No. 4939/2022, pending on the file of 10th Judicial Magistrate First Class, Nagpur is hereby quashed and set aside qua the present applicants.

17. Application stands allowed and disposed of accordingly.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Belkhede