



CRM-M-8108-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

117-1

CRM-M-8108-2020

Date of decision: 29.05.2024

Navdeep Sharma

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Narinder Lucky, Advocate for the petitioner.
Mr. Yuvraj Singh, AAG Punjab.
None for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 by the petitioner for quashing of FIR No.137 dated 03.10.2016 (Annexure P-1) registered for the offences punishable under Sections 406 & 498-A, of IPC at Police Station City Hoshiarpur, District Hoshiarpur, which was got lodged by respondent No.2 (herein)-wife as also all subsequent proceedings emanating therefrom on the basis of compromise/settlement entered into between the petitioner-husband and respondent No.2-wife in the divorce petition (Annexure P-3). The allegations in the FIR primarily relate to the allegations of harassment on account of dowry and *Istridhan* related criminal breach of trust.
2. On the day of listing of the instant petition i.e. 26.02.2020, the counsel for respondent No.2 had entered appearance and had filed his memo of appearance as well as admitted the factum of compromise/settlement. Accordingly, the parties were directed to get their statements recorded *qua*



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the factum of compromise before the concerned Illaqa (Jurisdictional) Magistrate.

3. In terms of the above-said order dated 26.02.2020 passed by this Court, a report has been received from the concerned Illaqa (Jurisdictional) Magistrate wherein it is stated that in the forenoon session, the attorney of the petitioner had appeared but none had appeared on behalf of respondent No.2. Subsequently, the case was again taken up in the post lunch session and attorney of respondent No.2 had appeared but none had appeared on behalf of the petitioner and as such, the statements could not be got recorded. Thereafter, the matter was listed for hearing before this Court on 04.03.2022, 09.11.2023 and 02.05.2024 but respondent No.2 remained unrepresented.

4. Learned counsel for the petitioner has argued that the entire dispute(s) between the petitioner-husband and the respondent No.2-wife was amicably settled & the petitioner-husband has fulfilled in entirety requirement(s)/condition(s) on his part as per the terms of the settlement/compromise entered into between the petitioner-husband and respondent No.2-wife in the divorce petition (Annexure P-3). It has been further submitted that the respondent No.2-wife has received from the petitioner-husband a total sum of Rs.5,50,000/- as full and final settlement amount. Learned counsel has further submitted that a mutual consent divorce decree has also been passed by the Additional District Judge, Hoshiarpur. The relevant part of the said order reads as under:-

“4. Statements of the parties i.e. Arvind Tiwari attorney of petitioner No.1 Navdeep Sharma and Sandeep Kumar attorney of petitioner No.2 Pooja Sharma were again recorded on 30.0.2018. They have stated that the parties never cohabited as husband and wife after their separation since



28.8.2015. They have settled all the disputes regarding past, present and future maintenance of petitioner No.2 and now nothing remains due against each other. Petitioner No.2 through her attorney has received the remaining amount of 2,25,000/- from the attorney of petitioner No.1. The parties are living separately since 28.8.2015. Petition was filed on 25.9.2017 i.e. after more than one year of separate residence of the parties. Waiting period of six months even has elapsed. Still parties are sticking to their stand of seeking decree of divorce by mutual consent without any pressure and as such, there is no reason as to why decree of divorce by mutual consent be not granted, as the necessary ingredients of section 13-B of Hindu Marriage Act are fulfilled.

5. In view of above discussion, petition under Section 13-B of the Hindu Marriage Act is allowed by dissolution of marriage of the parties from today. Decree sheet be drawn accordingly. File be consigned to record room."

5. Learned counsel has thus argued that, respondent No.2-wife is now intentionally not turning up before this Court to have her requisite statement recorded for quashing of the impugned FIR in terms of the compromise/settlement entered into between the parties, only with a view to harass the petitioner as also to prolong the litigation. Thus, it has been argued that the FIR in question as also all proceedings emanating therefrom deserve to be quashed.

6. Learned State counsel has not denied the factual aspects raised by learned counsel for the petitioner. Learned State counsel has further submitted that, as per his instructions, the compromise/settlement (Annexure P-3) was, infact, entered into between the petitioner-husband and respondent No.2-wife.

7. I have heard learned counsel for the parties and have perused the record.



8. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-40359-2022** titled as **Deepak vs. State of Haryana and another**, decided on 29.04.2024; relevant whereof reads as under:-

“8. Though Section 498-A was brought into the IPC, by way of an amending act of 1983, with the salutary objective of curbing the evil of dowry, but judicial experience evinces that this provision along with Section 406 of IPC is being heavily misapplied by the complainant-wife to settle score(s) with her husband and his family members. This Court in the case of **Varun Sharma** (supra) has held that, it has been noticeable in several cases, that the wife tends to initiate criminal proceedings under Section 498-A of IPC against her husband as also his relatives, as a means of a ‘solution seeking redressal mechanism’ rather than actually seeking to criminally prosecute them. On numerous occasions an individual wail does not ensue due to a vengeful proclivity or anger, but owing to distressing disappointment endured by a discontented spouse (wife, in the present case), in securing a copacetic solution of the matrimonial discord. The predicament of such a discontented partner (wife) is exacerbated when she is mentally/emotionally enervated due to, inter alia, an acceptable solution not seemingly forthcoming, as a result resorting to actuating a torsion of criminal prosecution. Yet, the abovesaid cannot be stated to be true in all the cases. Nevertheless, the fact remains, that the above-said situation is true for a large volume of cases being preferred in the Court(s). Ergo, the Courts ought to be prudent and cautious in dealing with such cases and must take into consideration all the pragmatic realities while evaluating the matrimonial discord related criminal cases. The Courts cannot be oblivious to countenancing the pragmatic and realistic necessities of time. The High Court, while exercising inherent and intrinsic powers under Section 482 of Cr.P.C. of 1973; ought to countenance the tangible and concrete realities and cannot engirth itself in an ivory tower.

8.1 It has been observed, inveterately, that a wife after having entered into a willful and valid compromise/settlement with the accused-husband and/or his family members, tends to reap all the benefits thereof and, thereafter, does not step forward for undertaking the necessary steps towards having the FIR in question quashed. The Hon’ble Supreme Court in cases of **Ruchi Agarwal** (supra) and **Mohd. Shamim** (supra) have extensively dealt with such like situation(s) & has enunciated that once the wife has reaped the benefit, she sought without contest on the basis of terms of such a compromise, it can be readily and unequivocally deciphered that conduct of such a wife in adopting dilatory tactics is only aimed at causing harassment to the husband/his family members. It is a settled cannon of our jurisprudence that credibility in the



functioning of the justice delivery system and the reasonable perception of the affected parties are, but of-course, relevant considerations to ensure the continuation of public confidence in the credibility as also majesty of our jurisprudential set-up. Needless to say that faith of people in the efficacy of law is; saviour and succour for the sustenance of the rule of law.

8.2 *The essential question that next arises is as to whether the High Court, by way of exercising of powers under Section 482 of Cr.P.C., can quash such an FIR (as also proceedings arising therefrom) in such a situation as was before Hon'ble Supreme Court in cases of **Ruchi Agarwal** (supra) and **Mohd. Shamim** (supra). The nature, scope and ambit of powers of the High Court under Section 482 of Cr.P.C., 1973 have been copiously delineated in the case of **Talima** (supra). The essential postulate that emerges is that the High Court; in its inherent jurisdiction under Section 482 of Cr.P.C.; has unbridled, unfettered and plenary powers. The only restriction on exercise of such powers is self restraint. Further, the nature, mode and extent of exercise of such intrinsic powers by the High Court depend upon the judicial discretion required to be wielded by a High Court in the facts and circumstance of a given case.*

8.3 *The Hon'ble Supreme Court in the case of **Mahmood Ali** case (supra) has held that in case of vexatious or malicious proceedings, the High Court is saddled with a bounden duty to look into the attending circumstances as also can even go on to read between the lines, while considering a plea for quashing of an FIR (as also all proceedings arising therefrom). It is hence ineluctable that ends of justice are higher than ends of mere law though justice ought to be administered according to laws made by the legislature. Accordingly; the High Court in exercise of its inherent powers under Section 482 of Cr.P.C. of 1973; can even well "read between the lines" as also examine the "attending circumstances" in a case if its facts/circumstances so warrant.*

9. *As a sequel to above discussion, the following principles emerge:*

I.(i) *In an FIR, arising from matrimonial related dispute, where the complainant/wife has reaped the benefits of a compromise/settlement & nothing more is required to be done by the accused-side/husband then such FIR (as also proceedings emanating therefrom) deserves to be quashed.*

(ii) *In a case of above kind; the complainant/wife may, but of-course, raise plea(s) that such compromise/settlement was a result of fraud/coercion/duress etc. However, such plea(s) ought to be substantiated by tangible material and merely bald assertion in that regard would not suffice. Furthermore, before allowing the wife to raise such a plea(s), the Court may*



also consider directing the complainant/wife to return the financial benefit(s) received in pursuance of such compromise/settlement.

II. In a case where the accused side/husband has undertaken some steps, in terms of as also in furtherance, of the compromise/settlement & such accused are willing to undertake all further/remaining act(s), as required in terms of such compromise/settlement; the High Court will be well within its jurisdiction, under Section 482 of Cr.P.C. of 1973, to favorably consider such quashing petition upon the further/remaining act(s) being so undertaken by the accused side/husband.

III. No comprehensive/exhaustive guidelines can possibly be laid-down in this regard as every case has its own unique factual conceptus. Needless to state that the High Court may exercise its intrinsic powers under Section 482 of Cr.P.C. of 1973 as called for in the facts/circumstance of a particular case.”

9. As per the case pleaded by the petitioner, a compromise deed/agreement (Annexure P-3) was entered into between the petitioner-husband and respondent No.2-wife in the divorce petition (Annexure P-3). Acting upon the said settlement/compromise, the respondent No.2-wife has received a sum of Rs.5,50,000/- (towards her entire maintenance/permanent alimony) from petitioner-husband and a decree of divorce (on account of mutual consent) has also since been passed by the concerned Family Court. It, accordingly, is indubitable that respondent No.2-wife has reaped all benefits from the compromise/settlement deed in question and a decree of divorce (by way of mutual consent) also stands passed.

9.1 The above said factual matrix clearly reflects that the continuation of proceedings in the impugned FIR is nothing but sheer abuse of process of law and Courts. Nothing except harassment would be caused to the petitioners in case the proceedings in pursuance of the impugned FIR are permitted to continue. This Court, especially while exercising its inherent powers under Section 482 of Cr.P.C. of 1973, cannot be expected to turn



Nelson’s eye to the vexatious and virulent attempt(s) by unscrupulous elements in misusing the process of law in Courts. Hence, it would be expedient in the interest of justice that the impugned FIR (as also the proceedings emanating therefrom) are quashed.

Decision

10. In view of the above, it is directed as follows:

The impugned FIR No.137 dated 03.10.2016 (Annexure P-1) registered for the offences punishable under Sections 406 & 498-A, of IPC at Police Station City Hoshiarpur, District Hoshiarpur as also all proceedings emanating therefrom are quashed.

(SUMEET GOEL)
JUDGE

May 29, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No