



CRM-M-11730-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11730-2024 (O&M)

Date of Decision: 16.12.2024

GAURAV KUMAR JUNEJA ALIAS GAURAV JUNEJA AND
OTHERS

.. Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Inderjeet Singh Chawla, Advocate for the petitioner.

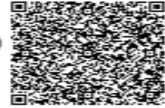
Mr. Adhiraj Singh Thind, AAG, Punjab

Ms. Karanjeet Kaur, Advocate
for respondent No.2
(through Video Conferencing)

...

SUMEET GOEL, J. (Oral)

1. The present petition has been filed by the petitioners under Section 482 of Cr.P.C.,1973 for quashing of FIR No.0023 dated 12.02.2022, under Sections 498-A and 406 of IPC, 1860, at Police Station City Fazilka, District Fazilka, which was got lodged by respondent No.2 (herein), along with all the consequential proceedings emanating therefrom, including final report dated 07.10.2022 under Section 173 of Cr.P.C. (Annexure P-2), on the grounds that the continuation of the above said proceedings will be an abuse of process of law and will lead to miscarriage of justice. The allegations in the FIR primarily relate to the allegations of harassment on account of dowry and Istridhan related criminal breach of trust.

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2. Notice of motion in the instant petition was issued on 05.03.2024 whereupon the respondents had entered appearance, through counsel, on 03.12.2024 and sought time to file reply.

3. Learned State counsel has filed reply/status report by way of affidavit of Tarsem Masih, PPS, Deputy Superintendent of Police, Sub Division Fazilka, District Fazilka in the Court today and the same is taken on record. Copy thereof has been furnished to the learned counsel for the petitioners.

4. Learned counsel for respondent No.2 has submitted that respondent No.2 is not responding to her calls and, therefore, she has not been able to file any reply.

5. Learned counsel for the petitioners has urged that the entire dispute(s) between petitioner No.1-husband and respondent No.2-wife was amicably settled & petitioner No.1-husband has fulfilled, in entirety, requirement(s)/condition(s) on his part as per the terms of the agreement/compromise. Learned counsel for the petitioners has further iterated that a petition under Section 13-B of Hindu Marriage Act, 1955 came to be filed between the parties wherein respondent No.2 had made the following statement on 04.01.2024:

“Stated that the marriage between the parties was solemnized on 04.04.2017 as per Hindu rites and rituals at Fazilka. After marriage, we cohabited as husband and wife. From the said wedlock, no child was bom.

Due to serious temperamental differences of opinion and also because of strained relations between the parties, with the passage of time our marriage has irretrievably broken down. Now we both are living separately since 02.08.2021. During that period we could not reconcile with each other.

As per settlement between the parties, we have exchanged our respective articles. My permanent alimony has been settled at Rs.8,00,000/- out of which I have received Rs.4,00,000/- earlier and the remaining amount of Rs.4,00,000/- have been received today. Thereafter I shall not claim any maintenance or share in property from petitioner No.2 in future. We shall withdraw the cases, if any, filed against each other and

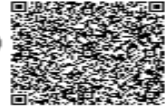
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will not file any case against each other pertaining to present marriage. I will not raise any objection regarding quashing of FIR bearing No.23 dated 12.02.2022, under Sections 498-A, 406 IPC, Police Station City Fazilka registered against petitioner No.2 and his family at my instance. We have mutually agreed to dissolve our marriage and the consent has not been obtained under any threat, coercion, inducement or undue influence. Though we were asked to reconcile the matter, but within the cooling off period we could not crease out our differences. Decree of divorce with mutual consent may kindly be passed.”

It has been further argued by the learned counsel for the petitioners that the Id. Principal Judge, Family Court, Fazilka had directed for dissolution of the marriage between the parties on 06.01.2024 and it has been recorded therein that respondent No.2 has received a total alimony amount of Rs.8 lacs on account of such settlement. Learned counsel for the petitioners has further drawn the attention of this Court to the said order passed by the learned Family Court, relevant whereof reads as under:

“It has further been decided that the petitioner No.1 will not proceed further with the case bearing FIR No.23 dated 12.02.2022, Police Station City Fazilka and she will be bound to suffer statement before the appropriate forum for quashing of the FIR aforementioned on the basis of compromise aforementioned. Both the parties have resolved their issues amicably and all the efforts of mediation and conciliation to reunite them have failed and there is no likelihood of success in that direction. The parties have genuinely settled their differences and have reached to the conclusion of annulling their marriage through decree of divorce. It has further been averred that the consent to file the present petition is free and has not been obtained under threat, coercion or undue influence. There is no possibility of reconciliation between the parties. Hence, the present petition.”

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

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7. Learned State counsel has not denied the factual aspects raised by learned counsel for the petitioners, insofar as it relate to the passing of the judgment by the concerned Family Court on the basis of settlement. Learned State counsel has further submitted that after completion of investigation, final report/challan was presented on 02.03.2023, and charges qua the FIR in question were framed against the petitioners on 16.03.2023. It has been further iterated by the learned State counsel that out of total 24 prosecution cited witnesses, 3 already stand examined. Learned State counsel has further submitted that there are clear and categoric allegations against the petitioners and evidence has been found supporting the same & hence the challan has been rightly filed by the police. He has, thus, sought for dismissal of the petition in hand.

8. Learned counsel for respondent No.2-wife has submitted that, though she has not filed any reply, yet the petition deserves to be dismissed as there are disputed questions of fact involved which require adjudication during the course of trial.

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

10. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-40359- 2022** titled as '**Deepak v. 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 498A 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

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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 situations) & 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

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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:

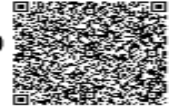
1. (i) *In an FIR, arising from matrimonial related dispute, where the complainant/wife has reaped the benefits of a compromise/settlement & nothing more is required to be done by the accused-side/husband then such FIR (as also proceedings emanating therefrom) deserves to be quashed.*

(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."*

11. As per the case pleaded by the petitioners, a settlement agreement/compromise was entered into between petitioner No.1 and respondent No.2. Acting upon the said settlement/compromise, the respondent No.2-wife has received a sum of Rs.8 lacs (towards her entire maintenance/permanent alimony) from petitioner No.1-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.

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11.1 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.

11.2 Before parting with this judgment, it is pertinent to note that the conduct of respondent No.2-wife is inexplicable in terms of *bona fide*. Any attempt to misuse the process of law/Courts ought to be detested. The feeling of rancor or bitterness cannot be permitted to be genesis for procrastinating the culmination of legal proceedings especially when settlement/compromise has been arrived at between the rival parties. Abhorrence of such attempt(s) is pertinent. *Ergo*, respondent No.2-wife deserves to be saddled with costs, which essentially ought to be in the nature of veritable real time costs.

Decision

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

- (1) The impugned FIR No.0023 dated 12.02.2022, under Sections 498-A and 406 of IPC, 1860, at Police Station City Fazilka, District Fazilka, which was got lodged by respondent No.2 (herein) along with all the consequential



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proceedings emanating therefrom including final report dated 07.10.2022 under Section 173 of Cr.P.C. (Annexure P-2) are quashed.

(ii) The respondent No.2-wife is saddled with costs of Rs. 75,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Fazilka within four weeks from today. In case such costs are deposited; CJM, Fazilka shall have the same remitted to Punjab State Legal Services Authority, Mohali. In case, the said costs are not deposited by respondent No.2-wife as directed for, the CJM Fazilka is directed to intimate the Deputy Commissioner, Fazilka who shall have such costs recovered from respondent No.2-wife, by all lawful means including, as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Fazilka shall have the same submitted to CJM, Fazilka, for further remittance thereof to Punjab State Legal Services Authority, Mohali. A compliance report be sent by CJM, Fazilka as also Deputy Commissioner, Fazilka to this Court accordingly.

(iii) Registry is directed to transmit a copy of this judgment to respondent No.2-wife; CJM, Fazilka as also Deputy Commissioner, Fazilka for requisite compliance.

13. Pending application(s), if any, shall also stand disposed off.

16.12.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No