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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR-809-2020 (O&M)

Date of decision: 19.12.2024

Kailash

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ashish Tewatia, Advocate for the petitioner.
Ms. Mahima Yashpal, DAG Haryana.
Mr. R.K. Sharma, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present revision petition has been preferred against the order of conviction as also order of sentence dated 05/06.03.2020 passed by Additional Sessions Judge, Palwal vide which the appeal of respondent No.2-complainant has been allowed and the judgment dated 23.04.2018 passed by Judicial Magistrate Ist Class, Palwal whereby the petitioner alongwith other accused were acquitted, was set-aside. Vide the order of conviction dated 05.03.2020 passed by the Additional Sessions Judge, Palwal; the petitioner was convicted for the offence punishable under Sections 323, 406, 498-A and 506 of IPC whereas the other accused have been acquitted of the charges framed against them. Vide order of sentence date 06.03.2020 passed by Additional Sessions Judge, Palwal the accused (petitioner herein) was sentenced to undergo rigorous imprisonment for a period of two and a half years and to pay a fine of Rs.41,000/- and in default whereof, he was further directed to undergo simple imprisonment for six



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2. During the pendency of the present revision petition, an amicable settlement was stated to have been arrived at between the parties whereinafter the parties have got divorce by mutual consent under Section 13-B of HMA, 1955 & in pursuance whereof one application i.e. CRM-45817-2024 was preferred praying for compounding/disposing off the instant revision petition in view thereof.

3. On 20.11.2024, the following order was passed in this case:-

“The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioner shall appear before CJM, Kaithal/Duty Magistrate, Palwal on 25.11.2024 or any date thereafter as fixed by trial Court/Illaq Magistrate for recording statement of the petitioner as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the CJM/Duty Magistrate, Palwal shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the CJM/Illaq Magistrate, Palwal to either record the statement of the parties by physical process or by video conferencing as deemed appropriate by the CJM/Illaq Magistrate, Palwal.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The CJM/Illaq Magistrate, Palwal may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of CJM/Illaq Magistrate, Palwal.



After recording the statements of all the affected parties in either of the aforesaid manner, the CJM/Illaq Magistrate, Palwal shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The CJM/Illaq Magistrate, Palwal shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 16.12.2024.”

4. Pursuant to the aforesaid order, report dated 10.12.2024 of Chief Judicial Magistrate, Palwal has been received which is taken on record. As per the report, the said Court has recorded as follows:

“Accordingly, on 04.12.2024, the Complainant Jyoti daughter of Surender Pal (Respondent no.2 before the Hon’ble high Court), appeared before this Court. She was duly identified by her Counsel. Thereafter, she voluntarily suffered a separately recorded statement (Annexure-A) in the Court to the effect that her marriage with the petitioner has been dissolved as per Decree of mutual consent Divorce passed vide Judgment dated 08.11.2023 by the Court of Ms. Kumud Gugnani, Learned Principal Magistrate Family Court, Palwal. As a result of this, she has received lump sum maintenance amount of Rs.14,00,000/- from the petitioner (husband) and the custody of their minor daughter is with her. She has also withdrawn cases pertaining to Section 125 of Cr.P.C. and DV Act, filed by her against the petitioner (husband).

However, she further stated that with respect to the present FIR No.15 dated 24.08.2014, under Sections 34/323/406/498-A/506 of IPC, no compromise or settlement has been effected with the petitioner (husband).”



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5. A perusal of the report dated 10.12.2024 received from the concerned Court indicates that respondent No.2-complainant did not come forward to have her statement recorded. The relevant of the said report reads as under:-

“3. After that, the accused Kailash (Petitioner before the Hon’ble High Court), duly identified by his Counsel, suffered a separately recorded statement (Annexure-B) in the Court to the effect that in the case pertaining to Mutual Consent Divorce pending before the Family Court at Palwal, it was settled between them that they shall withdraw all cases pending in any Court of law and this fact was mentioned in the joint statement of the parties recorded before the Family Court on 17.04.2023 before the said Court.

He further stated that his marriage with Jyoti (Respondent No.2 before the Hon’ble High Court) has already been dissolved legally, custody of their minor daughter is with Jyoti and he has already paid lump sum amount of Rs.14,00,000/- to her before the Family Court.

*He also placed on record statement of the parties recorded before the Learned Family Court, during first motion and second motion, which are enclosed herewith as **Annexure B2** and **Annexure B3**. ”*

6. Learned counsel for respondent No.2 has submitted that respondent No.2 is not agreeable for settlement/compromise qua the FIR in question i.e. FIR No.15 dated 24.08.2014 registered under Sections 498-A/406/323/506/34 of IPC at Police Station Camp Palwal. Learned counsel has further submitted that the settlement in question had not taken place regarding the FIR in question and proceedings arising therefrom.

7. Learned State counsel has submitted that the Court below has rightly convicted the petitioner and the same does not call for any interference by this Court.

8. I have heard learned counsel for the rival parties and have carefully gone through the records of the case.



9. This Court and the Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding in non-compoundable offences in the cases of ***Gian Singh vs. State of Punjab and another, 2012(10) SCC 303*** and ***Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052***. The proposition of law that emerges from the aforesaid decisions rendered by Apex Court and this Court is:

(a) Power u/s 482 Cr.P.C. vested with this Court is much wider and is unaffected by Section 320 of the Code.

(b) However, wider the power greater the caution.

(c) The underlining principle while exercising such power is that it can be invoked to quash the proceedings recognizing compromise between the parties in the matters which are overwhelmingly and predominantly of civil character like commercial transactions or arising out of matrimonial relationship or family disputes.

(d) The said power is not to be exercised in the prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. as such offences are not private in nature and have a serious impact on society.

(e) Section 482 Cr.P.C. casts duty upon the High Court to advance interest of justice as well. It is in recognition of this duty casted upon the High Court, that Apex Court held that the High Court would not refuse to quash FIR under Section 307 merely because FIR finds mention thereof. High Court can assess nature of injuries sustained, whether such injuries inflicted on vital/delicate parts of the body/nature of weapons used etc.

(f) Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.

(g) While quashing FIR in non-compoundable offences even which are private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.



The statutory provision of Section 528 of BNSS, 2023 is same as the statutory provision of Section 482 of Cr.P.C., 1973. Therefore, the above said principles of law would apply to an exercise of power under Section 528 of BNSS, 2023 as well.

9.1 At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided on 29th of September, 2021)***, the relevant whereof reads as under:

“12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under



*Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. vs. State of Punjab & Ors.**³ and **Laxmi Narayan (Supra).**”*

9.2. The inherent jurisdiction under section 528 BNSS, 2023/Section 482 Cr.P.C., 1973 is primarily aimed at preventing abuse of judicial process and securing the ends of justice. Thus, when the dispute is essentially personal in nature and a genuine compromise has been reached, the high court may intervene to quash the conviction recognizing the continued proceedings would be non-productive and unjust in the given circumstances. The inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice. In other words; such power(s) is intrinsic to a High Court, it is its very life-blood, its very essence, its immanent attribute. Without such power(s), a High Court would have form but lack the substance. These powers of a High Court hence deserve to be construed with the widest possible amplitude. These inherent powers are in consonance with the nature of a High Court which ought to be, and has in fact been, invested with power(s) to maintain its authority to prevent the process of law/Courts being obstructed or abused. It is a trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case, which in fact arises. A High Court which



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exists for the furtherance of justice in an indefatigable manner, should therefore, have unfettered power(s) to deal with situations which, though not expressly provided for by the law, need to be dealt with, to prevent injustice or the abuse of the process of law and Courts. The juridical basis of these plenary power(s) is the authority; in fact the seminal duty and responsibility of a High Court; to uphold, to protect and to fulfill the judicial function of administering justice, in accordance with law, in a regular, orderly and effective manner. In other words; Section 528 of BNSS, 2023 reflects peerless powers, which a High Court may draw upon as necessary whenever it is just and equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice *nay* substantial justice between the parties and to secure the ends of justice. Therefore, the High Court, in the exercise of its inherent power under section 528 BNSS, 2023/Section 482 Cr.P.C, 1973 has the discretion to quash a conviction where the parties have reached an amicable settlement, provided such compromise does not impinge upon the public interest or undermine justice, as well as the substantial justice.

10. Furthermore, in a judgment passed by this Court in ***CRM-M-40359-2022*** titled as ***Deepak vs. State of Haryana and another***, decided on 29.04.2024; it was observed 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.”

11. As per the case pleaded by the petitioner, a compromise deed/agreement was entered into between the petitioner-husband and respondent No.2-wife. Acting upon the said settlement/compromise, the respondent No.2-wife has received a sum of Rs.14.00 lacs (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.

11.1. The instant petition arises out of matrimonial discord between the parties. Matrimonial disputes arise from deeply entrenched personal conflicts and are often shaped by the socio-cultural realities of the parties involved. In adjudicating such cases, the court cannot operate in isolation, removed from the practicalities of everyday life. It must exercise its judicial functions with due regard to the social fabric, familial structures, and the emotional intricacies at play. A purely mechanical application of the law, devoid of contextual understanding, risks rendering decisions that fail to achieve substantial justice. Therefore, the court must strike a balance between strict legal principles and pragmatic considerations, ensuring its rulings serve the ends of justice.

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12. The above said factual matrix clearly reflects that the proceedings arising from the FIR *ibid* which culminated into the conviction of the petitioner vide impugned order is nothing but sheer abuse of process of law and Courts. Nothing except harassment would be caused to the petitioner in case the order of conviction is not set-aside. This Court, especially in exercise of 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 order of conviction as well as order of sentence dated 05/06.03.2020 passed by Additional Sessions Judge, Palwal be set-aside and the petitioner is acquitted of all the charges.

12.1. 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*, the respondent No.2-wife deserves to be saddled with costs, which essentially ought to be in the nature of veritable real time costs.

Decision

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

(i) The impugned order of conviction as also the order of sentence dated 05/06.03.2020 passed by Additional Sessions Judge, Palwal is set-



aside and the petitioner is acquitted of the charges under Sections 323, 406, 498-A and 506 of IPC.

(ii) The respondent No.2-wife is saddled with costs of Rs.1,50,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Palwal within four weeks from today. In case such costs are deposited; CJM, Palwal shall have the same remitted to Haryana State Legal Services Authority, Panchkula. In case, the said costs are not deposited by respondent No.2-wife as directed for; the CJM, Palwal is directed to intimate the Deputy Commissioner, Palwal who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Palwal shall have the same submitted to CJM, Palwal, for further remittance thereof to Haryana State Legal Services Authority, Panchkula. A compliance report be sent by CJM, Palwal as also Deputy Commissioner, Palwal to this Court accordingly.

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

(SUMEET GOEL)
JUDGE

December 19, 2024
Ajay

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