

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M-21427-2023
Date of decision: 30.04.2024
... PETITIONER

ABHIMANYU

V/s

STATE OF HARYANA & ANOTHER
... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anil Kumar Malik, Advocate for petitioner.
Ms. Priyanka Sadar, AAG, Haryana.
None for respondent No.2.

SUMEET GOEL, J.

1. The present petition has been filed under Section 482 of Cr.P.C., 1973 by the petitioner-husband for quashing of FIR No.783 dated 14.12.2021 (Annexure P-1) registered under Sections 406/498-A/506/323/34 of IPC at Police Station Ajad Nagar Hisar, District Hisar, Haryana which was got lodged by respondent No.2-wife as also by subsequent proceedings emanating therefrom on the basis of compromise effected between the petitioner and respondent No.2. The allegations in the FIR primarily relate to the allegations of harassment on account of dowry and Istridhan related criminal breach of trust.
2. The compromise is essentially based on the statement made by respondent No.2-wife, during proceedings of a mutual consent divorce petition, on 22.02.2023 relevant whereof reads as under:-

*“Our marriage was solemnized according to Hindu rites and ceremonies on 28.06.2020 at Hisar. From our wedlock, no child was born out. There has not been any cohabitation and we are residing separately since 14.06.2021.
Everything has been settled between the parties in full and final settlement of Rs.5,00,000/- as permanent alimony Out of which, an amount of Rs.2,50,000/- has been given by petitioner No.2 to*

petitioner no.1 today by way of cheque bearing no. 859524 dated 22.03.2023 drawn on Punjab National Bank, Chang, District Bhiwani and remaining amount i.e. 2,50,000/- shall be given by petitioner no.2 to petitioner no 1 at the time of second motion. No claim of future maintenance, alimony or any right in property would be raised by either of the parties. We shall withdraw all the litigations pending against each other. Our marriage may be dissolved by decree of divorce by way of mutual consent. The mutual consent has not been obtained any force, fraud, undue influence, threat to anyone and this petition has not been presented in collusion with each other. The contents of petition under Section 13-B may be read as a statement of both the parties.”

3. Notice of the motion of the instant petition was issued on 29.04.2023 & service was effected upon respondent No.2. However, respondent No.2 has chosen to remain unrepresented despite service.

4. Learned counsel for the petitioner has argued that the entire dispute (s) between the petitioner-husband and respondent No.2-wife was amicably settled & the petitioner-husband has fulfilled, in entirety, the requirements/conditions on his part as per statements arrived at between the parties.

5. It has been further argued that the respondent-wife has received an amount of Rs. 5 lacs from the petitioner-husband towards complete settlement of her maintenance/alimony etc. whereinafter a decree of divorce by way of mutual consent was passed by the Family Court, Hisar.

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

7. 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 her

instructions, the compromise was, in fact, entered between the petitioner-husband and

respondent No.2-wife whereupon a decree of divorce by mutual consent was also granted by the concerned Court.

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

9. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-40359-2022** titled as ***Deepak versus 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 12 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:

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.

10. As per the case pleaded by the petitioner-husband; a compromise was duly entered between the petitioner-husband and respondent No.2-wife. Acting upon the said compromise, the petitioner-husband has already paid a sum of Rs.5 lacs to respondent No.2-wife and a decree of divorce (by way of a mutual consent) has also been since passed by the concerned Family Court.

11. It is, accordingly, indubitable that respondent No.2-wife has reaped all benefits from the compromise in question & divorce petition (by way of a mutual consent) also stands passed by the concerned Family Court.

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 petitioner-husband 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, 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

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

- (I) The impugned FIR No.783 dated 14.12.2021 (Annexure P-1) registered for the offences punishable under Sections 406/498-A/506/323/34 of IPC at Police Station Ajad Nagar, District Hisar, Haryana as also all proceedings emanating therefrom are quashed.
- (ii) The respondent No.2-wife is saddled with costs of Rs.10,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Hisar within four weeks from today. In case such costs are deposited; CJM, Hisar shall have the same remitted to Haryana State Legal Services Committee, Panchkula. In case, the said costs are not deposited by respondent No.2-wife as directed for; the CJM, Hisar is directed to intimate the Deputy Commissioner, Hisar who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Hisar shall have the same submitted to CJM, Hisar, for further remittance thereof to Haryana State Legal Services Committee, Panchkula. A compliance report be sent by CJM, Hisar as also Deputy Commissioner, Hisar to this Court accordingly.
- (iii) Registry is directed to transmit a copy of this judgment to respondent No.2-wife; CJM, Hisar as also Deputy Commissioner, Hisar for requisite compliance.

(SUMEET GOEL)
JUDGE

April 30, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No