

CRM-M-40551-2018 (O&M)

272

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40551-2018 (O&M)

Date of Decision: 12.11.2024

Rajni Bhasin and others

.. Petitioners

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajiv Joshi, Advocate with
Mr. Anmol Partap Singh Mann, Advocate and
Mr. Navjot Singh Sidhu, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. Jatinder Kumar Kansal, Advocate
for Mr. Abhinav Gupta, Advocate for respondent No.2.

...

SUMEET GOEL, J.

1. The present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 by the petitioners for quashing of criminal complaint dated 30.08.2013 (Annexure P-5) pending in the Court of Ld. CJM, Jalandhar, Punjab, summoning order dated 10.06.2015 (Annexure P-14) passed therein as also order dated 21.08.2018 passed by learned Addl. Sessions Judge, Jalandhar whereby the revision preferred by the petitioners (herein) against the summoning order has been dismissed.

2. The complaint in question has been filed by respondent No.2 (herein), who is the mother of the aggrieved-wife in question. The allegations in the criminal complaint primarily relate to the allegations of

CRM-M-40551-2018 (O&M)

harassment on account of dowry and isticidhan related criminal breach of trust

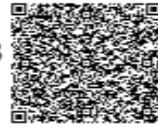
Learned counsel for the petitioners has primarily placed reliance on the fatum of a decree of divorce having been passed between the petitioner-husband and aggrieved-wife (Sumita Chopra) by a Circuit Court in Virginia, USA on 05.06.2015. Learned counsel for the petitioner has iterated that, as per the said final decree of divorce passed by the Court in USA, nothing survives between the parties & hence the respondent No.2 (herein) ought to have withdrawn the criminal prosecution in all fairness.

The relevant of the abovesaid final decree of divorce reads as under:

“6. The parties have no pending claims against each other and have settled all matters of real and personal property (including jewelry, cash and other valuables) custody and support, and that settlement is embodied in this Decree;”

3. Notice of motion of the instant petition was issued whereupon respondent No.2 has entered appearance through counsel and has opposed the petition. At this juncture, it would be worth noticing that respondent No.1-State of Punjab is not really a contesting respondent as the petition in hand emanates from a private criminal complaint.

4. Learned counsel for the petitioners has argued that the entire dispute(s) between the petitioner-husband and aggrieved-wife was amicably settled and the petitioner-husband has fulfilled, in entirety, the requirements/conditions on his part as per the final decree of divorce passed by the Court in USA. It has been further submitted that the aggrieved-wife has received from the petitioner-husband a total sum of about Rs.45 lacs. Learned counsel for the petitioners has thus argued that, respondent No.2 (herein) who is the mother of the aggrieved-wife is now intentionally not

**CRM-M-40551-2018 (O&M)**

withdrawing the criminal prosecution only with a view to harass the petitioners as also to prolong the litigation. Thus, it has been iterated that the criminal complaint in question, summoning order passed therein, order passed by the Sessions Court dismissing the revision preferred by the petitioners as also all proceedings emanating therefrom deserve to be quashed.

5. Learned State counsel has submitted that since the matter in hand essentially emanates from a private criminal complaint, the State is not really a contesting party.

6. Learned counsel for the complainant has argued that a perusal of the final decree of divorce dated 05.06.2015 passed by the USA Court would reflect that parties thereto i.e. the husband and wife in question had settled all matters of property and custody only whereas the criminal complaint in question relates to dowry harassment etc. having been meted out to the aggrieved-wife & hence the same cannot be considered as having any binding effect on respondent No.2/aggrieved-wife. It has been further iterated that there is sufficient material to indicate the culpability of the petitioners-accused & hence dismissal of the petition in hand has been sought for.

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

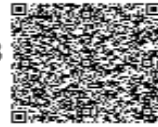
CRM-M-40551-2018 (O&M)

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



CRM-M-40551-2018 (O&M)

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 petitioners, the entire dispute between the petitioner-husband and aggrieved-wife had been decided upon & a decree of divorce dated 05.06.2015 was passed by a Court in USA. It, accordingly, is indubitable that no cause of action survives with the respondent No.2-herein (who is the mother of the aggrieved-wife) to continue with the prosecution of the criminal complaint in question.

10. At this juncture, it would be apposite to refer herein to a judgment titled as ***Mahmood Ali & Ors. Vs. State of U.P. & Ors. 2023 INSC 684***, wherein the Hon’ble Supreme Court has held as under:

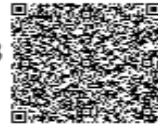
“12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with

CRM-M-40551-2018 (O&M)

the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.....”

10.1 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.

10.2 The Hon’ble Supreme Court in the celebrated judgment of ***‘Arnesh Kumar vs. State of Bihar and another 2014 (3) R.C.R. (Criminal) 527’***, has extensively dealt with the issue of deliberate and rampant misuse of provisions of Section 498-A of IPC as a tool of harassment by a disgruntled wife. The Courts are flooded with cases where it is found that

**CRM-M-40551-2018 (O&M)**

the complainant-wife has misused the provision of Section 498-A of IPC to settle score(s) with her husband and his family members, but at the same time it cannot be ignored that in very many cases such allegations of dowry harassment made by the wife turn out to be true. This Court cannot also lose sight of growing lack of a family level/Social Forum for redressal of grievance(s) of a wife arising out of matrimonial acrimony and therefore criminal proceedings under Section 498-A of IPC are launched at the instance of such wife on her being left with no other alternative redressal forum. Therefore, in many cases, 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. In other words, in large number of cases, the criminal prosecution under Section 498-A of IPC at the instance of a disgruntled wife are launched for settlement of the matrimonial discord in one way or the other.

11. The factual matrix of case in hand, clearly reflects that the continuation of proceedings *qua* the impugned criminal complaint 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 criminal complaint are permitted to continue. The complaint, in question, has been instituted by mother of the aggrieved-wife and no explanation *nay* sufficient explanation has been brought forth as to why the aggrieved-wife has not herself stepped forward to initiate and pursue the criminal proceedings in question. The allegations, forming basis of impugned criminal complaint and summoning orders against the petitioners, predominantly related to the Istridhan of wife being subject

CRM-M-40551-2018 (O&M)

matter of offence under Section 406 of IPC which are indubitably deemed to have settled by way of divorce decree passed by the USA Court.

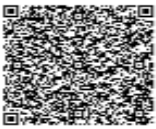
12. This Court, especially while exercising its inherent powers under Section 482 of Cr.P.C. of 1973, cannot be expected to turn *Nelson's eye* to the vexatious and virulent attempt(s) by unscrupulous elements in misusing the process of law in Courts. Hence, it would be expedient in the interest of justice that the impugned criminal complaint (as also the proceedings emanating therefrom) are quashed.

12.1 Before parting with this judgment, it is pertinent to note that the conduct of respondent No.2 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 deserves to be saddled with costs, which essentially ought to be in the nature of veritable real time costs.

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

(i) The criminal complaint dated 30.08.2013 (Annexure P-5) pending in the Court of Ld. CJM, Jalandhar, Punjab, summoning order dated 10.06.2015 (Annexure P-14) passed therein and the order dated 21.08.2018 passed by learned Addl. Sessions Judge, Jalandhar, dismissing the revision preferred by the petitioners as also all proceedings emanating therefrom are quashed.

(ii) The respondent No.2 is saddled with costs of Rs 25,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Jalandhar



CRM-M-40551-2018 (O&M)

within four weeks from today. In case such costs are deposited; CJM, Jalandhar shall have the same remitted to State Legal Services Authority, Mohali, Punjab. In case, the said costs are not deposited by respondent No.2 as directed for; the CJM, Jalandhar is directed to intimate the Deputy Commissioner, Jalandhar who shall have such costs recovered from respondent No 2 by all lawful means including as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Jalandhar shall have the same submitted to CJM, Jalandhar, for further remittance thereof to State Legal Services Authority, Mohali, Punjab. A compliance report be sent by CJM, Jalandhar as also Deputy Commissioner, Jalandhar to this Court accordingly.

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

12.11.2024
jatin

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No