

CRM-M-31608-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-31608-2022

Date of decision: 30.04.2024

Deepak Sharma

....Petitioner

V/s

State of U.T. Chandigarh and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Nirmal Kaur, Advocate for the petitioner.
Mr. Rajiv Vij, Additional P.P. U.T. Chandigarh with
Mr. Akashdeep Singh, Additional P.P. U.T. Chandigarh.
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.0120 dated 30.12.2017 (Annexure P-1) registered for the offences punishable under Sections 406 & 498-A of IPC at Police Station Women Police Station, District Chandigarh, which was got lodged by respondent No.2 (herein)-wife as also all subsequent proceedings emanating therefrom on the basis of statement of respondent No.2 recorded before the JMIC, Chandigarh on 13.12.2021 (Annexure P-2) in the proceedings under Section 125 of Cr.P.C. The allegations in the FIR primarily relate to the allegations of harassment on account of dowry and *Istridhan* related criminal breach of trust.

The relevant part of statement of respondent No.2 recorded before the JMIC, Chandigarh on 13.12.2021 (copy whereof has been appended as Annexure P-2) reads as under:-

“In full and final settlement we have received in cash Rs.2,50,000/- (Rs. Two Lakh fifty thousand only) from respondent Deepak Sharma S/o Sh. Satpal Sharma, R/o H. No. 3143, Sector-52 Chandigarh and thereby I

wish to withdraw the instant case alongwith but not limited to the case filed by me under Section 406, 498A list on 15.12.2021 before Ms. Renu Goyal, Ld. JMIC, Chandigarh. Both the parties will file a petition under Section 13B as well as quashing petition of the abovesaid criminal case within one month of withdrawing the instant case. At the time of the mutual divorce petition I will not claim any further amount from Sh. Deepak Sharma as I willfully settle the dispute with Deepak Sharma for once and for all. I am returning two cheques and a stamp paper as well as motorcycle bearing registration No. 5848 bearing Chandigarh registration alongwith keys.”

2. Notice of motion of the instant petition was issued on 22.07.2022. Service was effected upon respondent No.2 but she has chosen to remain unrepresented.

3. 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 the basis of statement of respondent No.2 recorded before the JMIC, Chandigarh on 13.12.2021 (Annexure P-2) in the proceedings under Section 125 of Cr.P.C. It has been further submitted that the respondent No.2-wife has received from the petitioner-husband a total sum of Rs.2,50,000/- lacs as full and final settlement amount. Learned counsel has further submitted that a mutual consent divorce decree has also been passed by the Additional Principal Judge, Family Court, Chandigarh on 06.04.2022. Learned counsel has thus argued that, respondent No.2-wife is now intentionally not turning up 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.

4. Learned counsel appearing for the U.T. Chandigarh has not denied the factual aspects raised by learned counsel for the petitioner. Learned State counsel has further submitted that, as per his instructions, a mutual consent divorce decree has also been passed by the Additional Principal Judge, Family Court, Chandigarh on 06.04.2022 and the parties have compromised the matter out of their free will without any coercion or pressure.

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

6. 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.”

7. As per the case pleaded by the petitioner, a statement of respondent No.2 was recorded before the JMIC, Chandigarh on 13.12.2021 (Annexure P-2) in the proceedings under Section 125 of Cr.P.C. wherein it has been stated that the parties have compromised the matter out of their free will without any coercion or pressure. Acting upon the statement of respondent No.2 recorded before the JMIC, Chandigarh on 13.12.2021 (Annexure P-2), the respondent No.2-wife has received a sum of Rs.2.50 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.

7.1 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 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.

7.2 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

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

(i) The impugned FIR No.0120 dated 30.12.2017 (Annexure P-1) registered for the offences punishable under Sections 406 & 498-A of IPC at

Police Station Women Police Station, District Chandigarh 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), Chandigarh within four weeks from today. In case such costs are deposited; CJM, Chandigarh shall have the same remitted to State Legal Services Authority, U.T. Chandigarh. In case, the said costs are not deposited by respondent No.2-wife as directed for; the CJM, Chandigarh is directed to intimate the Deputy Commissioner, Chandigarh who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Chandigarh shall have the same submitted to CJM, Chandigarh, for further remittance thereof to State Legal Services Authority, U.T. Chandigarh. A compliance report be sent by CJM, Chandigarh as also Deputy Commissioner, Chandigarh to this Court accordingly.

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

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

(SUMEET GOEL)
JUDGE

April 30, 2024
Ajay

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