



CRM-M-33657-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-33657-2022

Date of decision: 28.08.2024

Tarun Kumar @ Tarun Chaudhary and others

....Petitioners

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bhim Singh, Advocate for the petitioner.
Ms. Harpreet Kaur, AAG Haryana.
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 petitioners for quashing of FIR No.0064 dated 26.05.2019 (Annexure P-1) registered for the offences punishable under Sections 406, 498-A & 506 read with Section 34 of IPC at Police Women Police Station Gurugram, which was got lodged by respondent No.2 (herein)-wife as also all subsequent proceedings emanating therefrom on the basis of memorandum of settlement dated 16.12.2021 recorded before the Bengaluru Mediation Centre (Annexure P-3). 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 memorandum of settlement dated 16.12.2021 entered into between the petitioner-husband and respondent No.2-wife (copy whereof has been appended as Annexure P-3) reads as under:-



“1. The marriage between the Petitioner and the Respondent was solemnized on 21.02.2018 at Subrato Park, Auditorium 2, Air Force Campus, New Delhi, as per Hindu rites and customs.

2. It is further submitted by the petitioner and the respondent that due to irreconcilable incompatibility and misunderstanding, both the parties started residing separately since 14.07.2018. The efforts made by elder, well-wishes, friends of both the parties to reunite them did not work out and their marriage was irretrievably broken down. Even during the course of mediation both the parties have realized that they cannot continue their marital relationship and to lead a happy married life. Hence, both the parties have decided to put an end to their relationship by a decree of divorce.

3. The Petitioner and the Respondent state that they have a no children born to them from their wedlock.

4. Both the petitioner and the respondent are gainfully employed and as such they have no claims of maintenance/permanent alimony against each other.

5. The respondent had filed a criminal case in CHI 355/2019 filed under section 498-A, 406, 505 r/w 34 of IPC pending on the file of Sakshshini Gurgaon JMFC the respondent has agreed to cooperate with the petitioner for the closure/quash of the above said criminal case.

6. The petitioner and the respondent have agree that they have no claims against each other of whatsoever nature either past, present or future, including movable and immovable properties belonging to each other.

7. Both the parties admit that there is no force, coercion or undue influence upon them to enter in to this settlement/agreement and they pray that this Hon'ble Court may be pleased to grant a decree of divorce.

8. Both the parties agree that, henceforth they will not interfere with each other's life in any manner.

III. In view of the aforesaid agreement entered into between the parties, the parties pray that this Hon'ble Court be pleased to dissolve the marriage solemnized between the petitioner and the respondent on 21.02.2018 at Subrato Park, Auditorium 2, Air Force Campus, New Delhi, by granting a decree of divorce in terms of the aforesaid agreement.

2. Notice of motion of the instant petition was issued on 01.08.2022. Service was effected upon respondent No.2 but she has chosen

to remain unrepresented.



3. Learned counsel for the petitioners 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 memorandum of settlement dated 16.12.2021 recorded before the Bengaluru Mediation Centre (Annexure P-3). Learned counsel has further submitted that a mutual consent divorce decree has also been passed by the Additional Principal Judge, Family Court, Bengaluru on 18.12.2021. 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 petitioners 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 State counsel has not denied the factual aspects raised by learned counsel for the petitioners. Learned State counsel has further submitted that, as per her instructions, a mutual consent divorce decree has also been passed by the Additional Principal Judge, Family Court, Bengaluru on 18.12.2021 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 petitioners, a memorandum of settlement dated 16.12.2021 was recorded before the Bengaluru Mediation Centre (Annexure P-3) 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 said memorandum of settlement, 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.



Decision

8. In view of the above, the impugned FIR No. 0064 dated 26.05.2019 (Annexure P-1) registered for the offences punishable under Sections 406, 498-A & 506 read with Section 34 of IPC at Police Women Police Station Gurugram as also all proceedings emanating therefrom are quashed.
9. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 28, 2024
Ajay

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