



CRM-M-37310-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-37310-2022 (O&M)

Date of decision: 15.05.2024

Mayank Bhasin and others

....Petitioners

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pushp Jain, Advocate for the petitioners.

Ms. Mahima Yashpal, DAG Haryana.

Ms. Payel Mehta, Advocate for respondent No.2
(with respondent No.2 in person)

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.449 dated 25.11.2020 (Annexure P-1) registered for the offences punishable under Sections 313, 323, 354, 376, 406, 498-A and 511 of IPC at Police Station Ladwa, District Kurukshetra, which was got lodged by respondent No.2 (herein)-wife as also all subsequent proceedings emanating therefrom in the facts and circumstances of the case.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Subject: Complaint for taking legal action against 1. Mayank Bhasin, M.No.70099737936, 978077009 s/o Shri Pawan Kumar (Husband) 2. Neelam Sahni, M.No.7009737936, 9646217009 w/o Pawan Kumar (Mother- in-Law), both residents of Flat No.99, Chandigarh Apartment, Derabassi, Punjab, 3. Karan alias Ashapurnima r/o H.No.430, Phase 2 Mohali, Punjab. Respected Sir, complainant prays as under: 1. Complainant Vaishali wife of Mayank Bhasin d/o Inderjeet Anand, now resident of Ladwa stating therein that she is peace loving and law abiding citizen of India. 2. The marriage of the complainant was performed with Mayank Bhasin co-accused. On 18.06.2020 according to Hindu Rites and



ceremonies at Ladwa and in the marriage the barat was fully welcomed and dowry articles were entrusted to the accused beyond the capacity. Rs.5,00,000/- had spent on the lunch etc. by the family of the complainant. That marriage was settled by Karan alias Ashapurnima being mediator, who knows both the parties and also running a Marriage Bureau and in lieu of marriage, Karan Prabhakar had been taking Rs.51000/- as marriage fee. 3. Following dowry articles were entrusted to the accused persons by the parents of the complainant, 4 grams gold ring was given to Karan alias Ashapurnima by for consideration of Mandir by the parents of complainant, a gold ring weighing 5 grams and one golden chain of 15 gram was given to boy and 4 grams golden ear ring and 4 grams golden lady ring and 5 grams golden gents ring was given to Smt. Neelam Sahni the mother of accused No.1 and also 4 blankets were also handed over to them and an amount of Rs.51,000/- in lieu of clothes of other relatives were handed over to accused No.2 i.e. mother of accused No.1. That from the day of marriage the complainant was harassed by the husband and mother-in-law of the complainant. The complainant has taken degree of Master in Computer Science and the accused No.1 and 2 had not allowed the complainant to continue her service. Even, the complainant was not allowed by the accused No.1 and 2 to talk with her parents on mobile etc, not only this, the accused are making pressure to bring Rs.5,00,000/- for Car. The complainant was not allowed to visit at her parental home at Ladwa. The complainant had visited her parental home twice and after 3-4 days, the accused came at Ladwa and demanded Rs.5,00,000/- for Car from the parents of the complainant, but the family members of the complainant asked the accused to give some time to fulfill their demand and on this assurance, the accused has taken the complainant alongwith them at Derabassi, but after assurance of car, there is no change in the behavior of accused. The accused persons have terminated the services of made servant of the house and asked the complainant to do the house work like maid servant. The complainant was not allowed to go beyond boundary wall of the house. On 3.9.2020, a stomach pain problem has arisen to the complainant and she has requested to the accused to take her to hospital for her treatment, but the accused has flatly refused for the same. After repeated requests, the accused persons took her at Apna Hospital, Derabassi where after test and examination, the doctor stated her pregnancy of 6 weeks and after giving medicine and medical advise, the complainant was sent back to her matrimonial house by the concerned doctor. On 4.9.2020, the accused No.1 quarreled with the complainant and stated that as he was not ready for babe then how to dare to conceive. My



mother-in-law came to the spot after hearing the hue and cry and also supported the version of accused No.1. My mother-in-law had given a kick blow in my stomach and due to this, I fell down on the ground and it will abort like this. After this incident, the complainant felt pain in her stomach and after some time, she got aborted due to the injuries caused by her mother-in-law. The complainant delivered SMS through her mobile phone No.9896315974 to the Mobile No.9729637237 of her brother, namely Manish. That on 5.9.2020, the family members of the complainant including mother, Masi Kavita and brother Manish reached at her matrimonial house at Derabassi. My family members told the accused persons that they are going to lodge a complaint against them as they had given merciless beating to the complainant. But the accused persons fell down in their feet and requested to pardon them and they assured that they will not do any wrong with the complainant in future. The complainant was brought at Ladwa by her family members. That no complaint was moved at that time before police by the complainant or her family members as the accused persons have already requested for pardon. The complainant had given a telephonic call to her husband but no response was given by accused. That on 07.02.2020, the complainant has received a court notice u/s 10 of H.M. Act at Ladwa in which the accused had alleged that the complainant had taken all her ornaments including given by the accused No.1 and 2 to her at the time of her marriage. That the accused persons had filed a false case u/s 10 of H.M Act as the family members of the complainant had not fulfill their demand of Rs.5,00,000 as well as the complainant had conceived against the wish of accused No.1 and 2 hence, the respected authority while considering the matter, take legal action against the accused person for demanding dowry, for giving beatings, for aborting my child and the Istridhan and jewelry etc. be recovered from the accused persons. I will be thankful to you. Date 08.10.2020, complainant Sd/- Vaishali w/o Mayank Bhasin and daughter of Inderjit Anand, presently residing at Ladwa, District Kurukshetra.”

The allegations in the FIR primarily relate to the allegations of harassment on account of dowry and *Istridhan* related criminal breach of trust. A panchayati settlement dated 13.03.2021 (Annexure P-2) has also been entered into between the petitioner-husband and respondent No.2-wife (copy whereof has been appended as Annexure P-2); relevant part whereof



“That the first party lodged a case FIR No.449/2020 U/s 313,323,354,376,406,498-A, 511 IPC at Police Station Ladwa and the second Party Mayank son of Pwan Bhasin r/o H.No.99, Chandigarh Apartment, Barwala Road, Derabassi against the first party Vaishali Anand daughter of Inderjeet Anand, r/o H.No.79, Ward No.8, Bharpoor Colony, Ladwa in Police Station Mohali.

That both the parties do not want to take any action against each other and the settlement has arrived between both the parties in the presence of respectable persons. That both the parties will be responsible and bound to withdraw the cases filed against each other and Vaishali Anand and Mayank will file a case of divorce to get a divorce decree on the basis of panchayat Settlement. The second party will be responsible and bound to pay an amount. of RS.1,75,000/- (One La Seventy Five Thousand) to the first party, the half of which will be paid at the time of filing the case of Divorce before the Court on the first hearing and the remaining will be given on the next date of Divorce Petition. Vaishali has received her two gold rings and one pair of earrings from the second party during settlement. This settlement has been made between both the parties without any threat or pressure and both the parties have agreed for the settlement. Further expense of the advocate will be borne by the second party (husband).”

Affidavit dated 13.03.2021 (Annexure P-3) has also been duly sworn in by respondent No.2 with regard to the factum of compromise, relevant part whereof reads as under:

“2. That the deponent has registered a case against Mayank (Adhaar Card No.5391 3642 7213) son of Pawan Bhasin, R/o H.No.99, Chandigarh Apartment, Barwala Road, Derabassi and a middleman Karan in police station Ladwa. That the deponent now does not want to proceed and to take any action against Mayank and others. That the deponent herself will be responsible.

3. That the above statement is true and correct and if any fault will be found, the deponent shall be fully responsible for that.”

3. Notice of motion of the instant petition was issued on 08.05.2023 whereupon the counsel for respondent No.2 had entered appearance on 13.02.2024.



4. 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 his part as per the terms of the panchayati settlement dated 13.03.2021. It has been further submitted that the respondent No.2-wife has received from the petitioner-husband a total sum of Rs.1,75,000/- as full and final settlement amount. Besides a sum of Rs.7500/- has also been received by respondent No.2 in lieu of her remaining dowry articles left at her matrimonial home. Learned counsel has further submitted that a mutual consent divorce decree has also been passed by the Principal Judge, Family Court, Kurukshetra on 09.05.2022. The relevant part of the aforesaid order dated 09.05.2022 reads as under:-

“It is evident from the pleadings and statements of the petitioners that marriage of the petitioners was solemnized on 18.6.2020 at Ladwa, District Kurukshetra, as per Hindu rites and ceremonies. After the marriage, the petitioners resided together as wife & husband and consummated the marriage and fulfilled all matrimonial obligations. Due to temperamental differences they were not in a position to live together as well as husband. The parties are living separately since 5.9.2020 and thereafter, no cohabitation has taken place between them. They filed the present petition on 9.11.2021, seeking dissolution of their marriage by decree of divorce on the ground of mutual consent. The petitioners appeared in person and efforts for reconciliation were made but the same were not successful. So, the parties got recorded their statement on first motion on 9.11.2021 and on second motion today i.e. 9.5.2022. The marriage between the parties has broken down irretrievably and the parties are unable to live together as husband and wife. Even after filing of the petition and making of first statement sufficient time was given to the petitioners to reconsider the matter but they were reiterated their resolve to get their marriage dissolved by mutual consent. All the matters regarding claim of petitioner No.1 for permanent alimony, maintenance and all other claims for past, present and future have been settled for 1,75,000/- and the said amount has been accepted and received by petitioner No.1. Besides this, petitioner no.1 also received a sum of



₹7,500/- from petitioner no.2 in lieu of her remaining dowry articles left by her as matrimonial home. Nothing remains due against each other. Petitioner No.1 shall cooperate with petitioner No.2 and his family members for quashing of FIR No.449 dated under 25.11.2020 Sections 313,323,354,406,498-A,506 and Section 120-B of IPC and is also bound to give her statement before the Court for quashing the same.”

Learned counsel has thus argued that, respondent No.2-wife is now intentionally denying the factum of panchayati settlement dated 13.03.2021 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.

5. Learned counsel appearing for respondent No.2 has argued that the affidavit (Annexure P-3) of the respondent No.2-wife is a forged document. Further, learned counsel has argued that it cannot be said that respondent No.2 had entered into a settlement/agreement for quashing of the FIR *qua* all the accused including the accused-petitioner No.3.

6. 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, the panchayati settlement dated 13.03.2021 was, infact, entered into between the petitioner-husband and respondent No.2-wife & a decree of divorce (by way of mutual consent) has also been passed.

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 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.”

9. As per the case pleaded by the petitioners, a panchayati settlement dated 13.03.2021 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.1,75,000/- (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. A perusal of the judgment passed by the concerned Family Court under Section 13-B of the HMA, 1955 clearly shows that the respondent No.2 had, in-fact, agreed to quashing of the FIR in question as also the proceedings emanating therefrom. Apart from a bald assertion, no tangible material has been brought forward to support the contention raised on behalf of respondent No.2 that affidavit (Annexure P-3) is a forged document. Further; affidavit dated 13.03.2021 (Annexure P-3) reflects that matter had been settled *qua* all the accused. It is also not in dispute that no plea has been raised, till date, by respondent No.2 before the



consent) was passed on account of fraud, coercion or misrepresentation. It, accordingly, is indubitable that respondent No.2-wife has reaped all benefits from the compromise/settlement in question and a decree of divorce (by way of mutual consent) also stands passed.

9.1 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.

9.2 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

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

(i) The impugned FIR No.449 dated 25.11.2020 (Annexure P-1)



406, 498-A and 511 of IPC at Police Station Ladwa, District Kurukshetra as also all proceedings emanating therefrom are quashed.

(ii) The respondent No.2-wife is saddled with costs of Rs.25,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Kurukshetra within four weeks from today. In case such costs are deposited; CJM, Kurukshetra 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, Kurukshetra is directed to intimate the Deputy Commissioner, Kurukshetra who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Kurukshetra shall have the same submitted to CJM, Kurukshetra, for further remittance thereof to Haryana State Legal Services Authority, Panchkula. A compliance report be sent by CJM, Kurukshetra as also Deputy Commissioner, Kurukshetra to this Court accordingly.

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

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

(SUMEET GOEL)
JUDGE

May 15, 2024
Ajay

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