

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

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CRM-M-52896-2022 (O&M)

Date of decision: 01.05.2024

INDERPREET SINGH**... PETITIONER****V/s****STATE OF PUNJAB AND OTHERS****... RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Palvinder Singh Sarna, Advocate for petitioner.
Mr. Anup Singh, AAG, Punjab.
None for respondent No.2.
Mr. Inder Singh Gahlawat, Advocate for respondent No.3.

SUMEET GOEL, J.**CRM-43678-2022**

Application is allowed as prayed for subject to all just exceptions.

CRM-M-52896-2022

1. The present petition has been filed under Section 482 of Cr.P.C., 1973 by the petitioner-husband for quashing of FIR No.148 dated 06.12.2018 registered under Sections 406, 498-A of IPC at Police Station Women, Ludhiana, Punjab as also all subsequent proceedings emanating therefrom, which was got registered by respondent No.2-wife, on the basis of settlement dated 30.04.2022 entered into between the petitioner and respondent No.2. The allegations in the FIR primarily relate to harassment on account of dowry and Istridhan related criminal breach of trust.

2. The relevant part of the settlement dated 30.04.2022 reads as under:-

1. That keeping into view the expenses incurred by both the parties, in litigation, as well as permanent alimony/maintenance of 2nd party, it has been mutually decided that the 1st party shall pay a total amount of Rs. 4 lakhs to the 2nd party. The said amount includes all the expenses, permanent alimony/maintenance of 2nd party and any other expenses whatsoever concerning the said litigation and matrimonial relationship and thereafter nothing will be due against each other and none of the parties shall make any such claim against each other in future, of any kind whatsoever.
2. That both the parties shall file a petition for mutual divorce, against each other, within a period of one month of the signing of the present settlement deed at Ludhiana, after the said petition is filed in the District Court, Ludhiana and at the time of making first statement, in the said Mutual divorce petition, 1st party shall make a payment of Rs. 2 lakhs, by way of cheque/ DD and on cheque/ DD and on the date of subsequent and final hearing, the remaining amount of Rs. 2 lakhs would be paid in a similar manner by 1st party to the 2nd party, immediately after the final statement is made by the parties in the said mutual divorce petition and the matter is finally decided by grant of divorce.
3. That the 2nd party has already filed a complaint against 1st party and his mother, on the basis of which an FIR no. 148, Dt. 06.12.2018, was registered at WPS, Ludhiana, U/s 406, 498-A etc of IPC, the trial concerning which is pending in the Court of Sh. Palwinder Singh, JMIC, Ludhiana, for 30.06.2022 and the 2nd party undertakes to get the same quashed qua the 1st party, by making a statement to that effect in the Quashing petition, which would be filed by the 1st party in the Hon'ble Punjab and Haryana High Court, on the basis of the present settlement. The Quashing petition shall be filed in the Hon'ble High Court, within one month of the execution/ signing of this settlement.
4. That the 2nd party also filed a petition for maintenance U/s 125 Cr.PC. against the 1st party, which was decided ex-parte in favour of the 2nd party. On the basis of the same, the 2nd party filed an execution against the 1st party and the 1st party filed an application for setting aside the ex-parte decree and both the said execution and misc. application are pending in the Court of Hon'ble Addl. Principal Judge, Family Court Ludhiana, for 30.04.2022 and both the parties undertake to withdraw the same on the next date of hearing.
5. That it has further been informed by the 2nd party, that she has filed a complaint under Domestic Violence Act against the 1st party and his mother, which is pending in the Court of JMIC, Ludhiana, for 17.05.2022. In the said complaint, the 1st party was proceeded against ex-parte, for non-appearance, to which the 1st party is ignorant as he did not receive any summons qua the same. However, in view of the present

settlement, the 2nd party undertakes to withdraw the said complaint qua the 1st party, on the next date of hearing i.e. 17.05.2022.

6. That besides the above mentioned matters, the 1st party had also filed a petition U/s 9 of HMA, which is pending. in the court of Sh. Bharat Kumar, JMIC, Chandigarh, for 02.05.2022, in which the 2nd party had filed an application U/s 24 of HMA. Both the parties undertake to withdraw the same on the next date of hearing.

7. That both the parties further undertake to not to file any other case, whatsoever, pertaining to the concerned Matrimonial relationship, or in any manner related thereto, themselves or through any of their relatives etc and if at all any such case/ complaint of whatsoever nature has already been filed, the same shall be withdrawn Immediately before the filing of the above mentioned Mutual divorce petition.

8. That both the parties mutually agree, that they will not make any sort of allegations etc against either of them, of any nature whatsoever and all allegations which, if at all made in any sort of correspondence or pleadings etc, in the Court of law, shall stand unequivocally withdrawn.

9. That both the parties have already taken their concerned belongings, concerning the said marriage, including jewellery etc and now nothing is due towards each other and no such claim, shall be raised in future, by any of them against each other, at all.

10. That both the parties undertake to make the statement for Quashing of FIR, or for withdrawal of the pending cases etc. before any Court/Authority of Law.

11. That by signing this settlement/ agreement, the parties hereto agree and state that they have no further claims or demands against each other with respect to any cases/ complaints/proceedings etc., filed by them in the different Courts/ Authorities of Law and all the disputes and differences in this regard, have been amicably settled and none of them shall institute any other case whatsoever against each other with reference to the present claim or arising out of matrimonial relations.”

3. Notice of motion of the instant petition was issued on 16.11.2022 & service was duly effected upon respondent No.2-wife and she initially chose to appear through a counsel. Thereafter, neither the learned counsel has entered appearance on behalf of respondent No.2-wife nor respondent No.2-wife has chosen to appear in person.

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 terms of the settlement dated 30.04.2022.

5. Learned counsel for the petitioner has further submitted that a decree of divorce (by way of mutual consent) was also passed by the Principal Judge, Family Court, Ludhiana on 21.02.2023.

6. Learned counsel for the petitioner has further argued that the petitioner-husband had withdrawn a petition filed by him under Section 9 of the Hindu Marriage Act, 1955 on 14.08.2022. Learned counsel for the petitioner has further submitted that a total amount of Rs.4 lacs was given to the respondent No.2-wife which was received by her towards full and final settlement of all her claims. Thus it has been argued that the FIR in question as also 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 his instructions, the settlement was, in fact, entered between the petitioner-husband and respondent No.2-wife.

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 settlement dated 30.04.2022 was duly entered between the husband and respondent No.2-wife. Acting upon the said settlement, the petitioner-husband has paid a sum of Rs.4 lacs to respondent No.2-wife towards final settlement of all her claims towards maintenance/permanent alimony etc. Pursuant thereto, a judgment of divorce (by way of a mutual consent) was also passed by the concerned Family Court & the petitioner-husband has also withdrawn a petition preferred under Section 9 of the Hindu Marriage Act, 1955.

11. A perusal of the settlement (Annexure P-4) dated 30.04.2022 also reflects it is mutually agreed that the respondent-wife shall cooperate for cancellation/quashing of the FIR in question. It is, accordingly, indubitable that the respondent-wife has reaped all the benefits from the compromise in question & nothing further remains to be done on behalf of the petitioner-husband.

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.148 dated 06.12.2018 registered for the offences punishable under Sections 406, 498-A of IPC at Police Station Women, Ludhiana as also all proceedings emanating therefrom are quashed against all accused therein.

(ii) The respondent No.2-wife is saddled with costs of Rs.40,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Ludhiana within four weeks from today. In case such costs are deposited; CJM, Ludhiana shall have the same remitted to Punjab Legal Service Authority, Mohali. In case, the said costs are not deposited by respondent No.2-wife as directed for; the CJM, Ludhiana is directed to intimate the Deputy Commissioner, Ludhiana who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Ludhiana shall have the same submitted to CJM, Ludhiana, for further remittance thereof to Punjab Legal Service Authority, Mohali. A compliance report be sent by CJM, Ludhiana as also

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

(SUMEET GOEL)
JUDGE

May 01, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No