

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-41380-2019

Date of decision: 30.04.2024

Gursewak Singh

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. N.S. Sodhi, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. G.S. Bhinder, Advocate 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.60 dated 20.05.2010 (Annexure P-1) registered for the offences punishable under Sections 494, 498-A and 406 of IPC at Police Station Division No.1, District Pathankot, which was got lodged by respondent No.2 (herein)-wife and all subsequent proceedings emanating therefrom as also order dated 29.11.2010 vide which the petitioner has been declared as Proclaimed Offender (Annexure P-2) on the basis of mutual compromise/settlement dated 16.01.2019 (Annexure P-3) entered into between the petitioner-husband and respondent No.2-wife and in view of judgment dated 15.11.2016 (Annexure P-4). 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 compromise/settlement dated 16.01.2019 (Annexure P-3) entered into between the petitioner-husband and respondent

No.2-wife (copy whereof has been appended as Annexure P-3) reads as under:-

- “1. That the party of the 2nd part shall pay Rs.3,25000/- as lum sump amount to the party of the First part through Cheque No.485309 Dt: 16.1.2019 of State Bank of India' Karoli Cantt.*
- 2. That both the parties shall file a case Under Section 13-b of the Hindu Marriage Act in the Court of District Judge Family Court Pathankot for dissolution of marriage.*
- 3. That both the parties shall mutually file petition for quashing the FIR in the Hon'ble Punjab & Haryana High Court at Chandigarh on the basis of this compromise, after putting their signature on this compromise.*
- 4. That both the parties has compromise with each other with their free consent without any pressure and shall abide all the terms and conditions of this compromise and no party of this compromise shall challenge the terms and condition of this compromise in any competent court of law.*
- 5. That party no.1 i.e. complainant shall have no objection in case of quashing FIR by the Hon'ble High Court as per the compromise and also shall make her statement before the Ilaqa Magistrate, if require in favour of the party no.2.*
- 6. That in case of appellant court acquite the party no.2 on the basis of this compromise, the party no.1 shall have no objection in this regard.*

This compromise has been entered into between both the parties with their free will and consent and without any pressure. It has been read over and explained to both the parties in Local Language and has been signed in the presence of respectable and family members after accepting it to be correct.”

2. On the day of listing of the instant petition, the counsel for the respondent No.2 had entered appearance and had filed his memo of appearance. Further vide order dated 17.03.2020, the parties were directed to get their statements recorded *qua* the factum of compromise before the concerned Illaqa (Jurisdictional) Magistrate. It is pertinent to mention herein that on the said date i.e. 17.03.2020, the learned counsel for respondent No.2 had again admitted to the factum of compromise as also raised no objection to the quashing of order dated 29.11.2010 vide which the petitioner has been

statements by parties before the concerned Illaqa (Jurisdictional) Magistrate was passed.

3. Initially, the petitioner was declared as Proclaimed Offender in terms of order dated 29.11.2010. However, in pursuance of interim order dated 15.12.2022 passed by this Court, arrest of the petitioner was stayed and accordingly, the parties were directed to appear before the concerned Illaqa (Jurisdictional) Magistrate to get their statements recorded in terms of the earlier order dated 17.03.2020 passed by this Court. Thereafter, a report has been received from the concerned Illaqa (Jurisdictional) Magistrate that the petitioner had duly appeared for making the requisite statement but respondent No.2 (herein)-wife did not turn up. It is further stated in this report that there is no other accused in the FIR in question other than the petitioner; the petitioner was not involved in any other FIR. It is further stated therein that the petitioner was declared a proclaimed person but was granted bail by this Court vide order dated 15.12.2022.

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 settlement/compromise deed dated 16.01.2019. 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 and all proceedings emanating therefrom as also order dated 29.11.2010 vide which the petitioner has been

5. 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 compromise/settlement (Annexure P-3) was, infact, entered into between the petitioner-husband and respondent No.2-wife.

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

7. 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.”

8. As per the case pleaded by the petitioner, a compromise deed/agreement dated 16.01.2019 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.3.25 lacs (towards her entire maintenance/permanent alimony) from petitioner-husband. It, accordingly, is indubitable that respondent No.2-wife has reaped all benefits from the compromise/settlement deed in question.

8.1 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

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.

8.2 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

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

(i) The impugned FIR No.60 dated 20.05.2010 (Annexure P-1) registered for the offences punishable under Sections 494, 498-A and 406 of IPC at Police Station Division No.1, District Pathankot, which was got lodged by respondent No.2 (herein)-wife and all subsequent proceedings emanating therefrom are quashed.

Keeping in view the entirety of facts and circumstances of the case especially that respondent No.2-wife has received a sum of Rs.3.25 lacs (towards her entire maintenance/permanent alimony) from petitioner-husband; all the other accused have been acquitted by the trial Court vide judgment dated 15.11.2016 as also respondent No.2 has re-married and living with her family, no useful purpose would be served by continuation of the criminal proceedings. Accordingly, the impugned order dated 29.11.2010

vide which the petitioner has been declared as Proclaimed Offender (Annexure P-2) is also 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), Pathankot within four weeks from today. In case such costs are deposited; CJM, Pathankot shall have the same remitted to Punjab State Legal Services Authority, Mohali. In case, the said costs are not deposited by respondent No.2-wife as directed for; the CJM, Pathankot is directed to intimate the Deputy Commissioner, Pathankot who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Pathankot shall have the same submitted to CJM, Pathankot, for further remittance thereof to Punjab State Legal Services Authority, Mohali. A compliance report be sent by CJM, Pathankot as also Deputy Commissioner, Pathankot to this Court accordingly.

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

10. 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