

CRM-M-60808-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-60808-2023

Date of decision: 30.04.2024

Naveen and another

....Petitioners

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Onkar Rai, Advocate for
Mr. Neeraj Sharma, Advocate for the petitioners.
Mr. Anup Singh AAG Punjab.
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.63 dated 07.05.2019 (Annexure P-1) registered for the offences punishable under Sections 498-A, 323 and 406 of IPC at Police Station Nangal, Rupnagar, which was got lodged by respondent No.2 (herein)-wife as also all subsequent proceedings emanating therefrom on the basis of mutual agreement/settlement dated 23.09.2023 entered into between the petitioner No.1-husband and respondent No.2-wife. 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 deed dated 23.09.2023 entered into between the petitioner-husband and respondent No.2-wife (copy whereof has been appended as Annexure P-2) reads as under:-

“a) That the marriage between the parties have been irretrievably broken down and there are no chances of settlement, therefore, the parties have

mutually agreed that they will part their ways by taking divorce by mutual consent before the honorable court of Ld. Principal Judge, Family Court, Una, District Una H.P.

b) That it has also been mutually agreed that the first party will pay lump sum amount of Rs. 5, 00, 000/- (Five Lakhs only) as permanent alimony to the second party out of which the first party will pay Rs. 2,00,000/- (Two Lakhs only) on the statement for first motion before the honorable court and rest of remaining amount of Rs. 3,00,000/- (Three Lakhs only) will be paid by the first party to the second party at time of statement of the second motion.

c) That it has also been settled that the second party has taken all her Istridhan/articles from the first party and she will also withdraw the complaint under section 12 of Protection of Women from Domestic Violence Act, 2005 which is pending for adjudication before Ld. Sub Divisional Magistrate, Nangal, District Rupnagar, Punjab, Petition under section 125 Cr.P.C which is pending for adjudication before Ld. Add. Principal Judge, Family Court, Rupnagar Punjab and the case registered vide F.I.R no. 63 dated 07-05-2019 under section 498-A, 323, 406 I.P.C which is also pending for adjudication before Ld. Sub Divisional Magistrate, Nangal, District Rupnagar, Punjab.

d) That both the parties had also agreed that both children will remain with the custody of the second party and the first party shall have right to visit his children and the first party will withdraw his case under Guardian and Ward Act for the custody of the children which is pending for adjudication before Ld. Add. Principal Judge, Family Court, Rupnagar Camp at Nangal, Punjab.

e) That the first party will also withdraw his divorce petition which is pending before the honorable court of Ld. Additional Principal Judge, Family Court no. I, Una, District Una H.P.

f) That it has also been agreed between the parties, if, the first party did not appear to give his statement of second motion before the Ld. Principal Judge, Family Court, Una, District Una H.P then the amount of Rs. 2,00,000/- (Two lakhs only) which will be paid to the second party at the time of the recording of statement for first motion will be forfeited and she will have the right to claim maintenance from the first party and similarly, if, the second party after receiving the amount of Rs. 2,00,000/- (Two Lakhs only) did not appear to give his statement of second motion before the Ld. Principal Judge, Family Court, Una, District Una H.P then she will be liable to pay Rs. 4,00,000/- (Four lakhs only) i.e. double the amount of Rs.2,00,000/- (Two lakhs only).

g) That the compromise has been effected without any fear, undue influence or coercion and with free consent and will. That all the contents of compromise have been explained to the parties in their vernacular language and all the

contents are correct to the best of their knowledge and belief and nothing has been concealed therein."

2. Notice of motion of the instant petition was issued on 11.12.2023. 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 his part as per the terms of the settlement/compromise deed dated 23.09.2023. It has been further submitted that the respondent No.2-wife has received from the petitioner-husband a total sum of Rs.5.00 lacs as full and final settlement amount. Learned counsel has further submitted that a mutual consent divorce decree has also been passed by the Principal Judge, Family Court, Una (Himachal Pradesh). The relevant part of the statement made by respondent No.2-wife (in second motion herein) reads as under:-

"Both the petitioners have mutually settled their matter in lump sum of ₹5,00,000/- (₹Five Lac) regarding permanent alimony. Out of ₹5,00,000/-, I have paid ₹2,00,000/- on 26.9.2023 and today I have received remaining amount of ₹3,00,000/- Vide DD No. 630322 dated 26.03.2024 of PNB Bitan, District Una (HP) from petitioner.1 Naveen, as full and final amount being permanent alimony. We had no relations whatsoever, during the past six months(Cooling off period). Both petitioners have mutually agreed that both minors children Niyati and Mankirat shall remain with petitioner No.2 Neelam Kumari. I shall withdraw the Criminal case pending before Ld. SDJM, Nangal, District Roop Nagar (Pb) registered vide FIR No. 63 dated 7.5.2019 U/S 498-A, 323,406 IPC. We have mutually agreed to put an end to the matrimonial relations as there is no likelihood of resuming the matrimonial relations. The marriage has broken down irreparably. Accordingly, this petition is being jointly filed for dissolution of marriage by mutual consent may kindly be allowed."

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4. 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.

5. 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 his instructions, the compromise/settlement (Annexure P-2) 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 petitioners, a compromise deed/agreement dated 23.09.2023 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.5.00 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.

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 petitioners 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.

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.63 dated 07.05.2019 (Annexure P-1) registered for the offences punishable under Sections 498-A, 323 and 406 of

IPC at Police Station Nangal, Rupnagar as also all proceedings emanating therefrom are quashed.

(ii) The respondent No.2-wife is saddled with costs of Rs.20,000/- which shall be deposited by her with Chief Judicial Magistrate (CJM), Rupnagar within four weeks from today. In case such costs are deposited; CJM, Rupnagar 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, Rupnagar is directed to intimate the Deputy Commissioner, Rupnagar who shall have such costs recovered from respondent No.2-wife as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Rupnagar shall have the same submitted to CJM, Rupnagar, for further remittance thereof to Punjab State Legal Services Authority, Mohali. A compliance report be sent by CJM, Rupnagar as also Deputy Commissioner, Rupnagar to this Court accordingly.

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

(SUMEET GOEL)
JUDGE

April 30, 2024
Ajay

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