

(2021) 08 SHI CK 0208

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No.387 Of 2021

Ahsan

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 23-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 245, 320, 482
Indian Penal Code, 1860 — Section 498A

Citation : (2021) 08 SHI CK 0208

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Inderjeet Singh Narwal, Nand Lal Thakur, Shri Kunal Thakur, Ram Lal Thakur, Sunny Dhatwalia, Satish Kumar

Final Decision : Allowed

Judgement

FIR No.,Dated,Police Station,Sections

337 of 2018,17.11.2018,"Boileauganj, District

Shimla, H.P.",498-A of the IPC.

accused to appear to contend that the very issuance of the order of taking cognizance is invalid on the ground that no offence can be said to have,,,

been made out on the allegations made in the complaint petition. It has been held in a number of cases that power under Section 482 has to be,,,

exercised sparingly and in the interest of justice. But allowing the criminal proceeding to continue even where the allegations in the complaint petition,,,

do not make out any offence would be tantamount to an abuse of the process of court, and therefore, there cannot be any dispute that in such case",,,,

power under section 482 of the Code can be exercised.,,,,

7. In *Girish Sarwate v. State of A.P.*, 2005(1) R.C.R.(Criminal) 758, the Full Bench of Andhra Pradesh High Court observed that the High Court need",,,

not wait for completion of investigation and taking cognizance by the Magistrate.,,,

NON-COMPOUNDABLE OFFENCES CAN BE QUASHED:,,,

8. In the present case, the offence under Section 498-A IPC is not compoundable under Section 320 CrPC. However, in *Saloni Rupam Bhartiya v*",,,

Rupam Prahlad Bhartiya, 2015(4) R.C.R.(Criminal) 172, a three Judges Bench of Honâ??ble Supreme Court, while dealing with Section 498-A of",,,

IPC, which was non-compoundable offence, holds â??It was submitted by learned counsel for the parties that in the light of the above subsequent",,,

developments especially the fact that the marriage between the parties itself stands dissolved by a decree passed by a competent court, nothing really",,,

remained between the parties to be addressed and that the conviction of the respondent-husband under Section 498A of the Indian Penal Code could,,,

be set aside. We see no reason to decline that prayer. In the circumstances, therefore, and in the light of the fact that the parties have successfully",,,

negotiated an amicable settlement sinking and resolving all their differences and disputes and finding a lasting solution on all the outstanding issues,,,

between themselves, we see no reason why the conviction recorded by the courts below and the sentence of imprisonment till the rising of the Court,",,

which the respondent has already undergone should continue to blemish the respondent-husband. We accordingly set aside the judgment and order of,,,

conviction of the respondent under Section 498A of the Indian Penal Code.â??,,,

CONCLUSION:,,,

9. Although, the withdrawal of FIR would be through District Magistrate as a routine procedure, yet the High Court has inherent jurisdiction under",,,

Section 482 of the CRPC, to intervene in such kind of matter. It is not the requirement of law that the cancellation has to be approved only through the",,,

District Magistrate. Inherent Jurisdiction of the High Court under section 482 CrPC can always be exercised, depending upon the facts and",,,

circumstances. The parties are likely to live together for a lifetime, and intervention would create a cordial environment for peaceful relations between",,,

them. Given the entirety of the case and judicial precedents, I am of the considered opinion that the continuation of these proceedings will not suffice",,,

any fruitful purpose whatsoever.,,,

10. In the present case, the offenses are not compoundable under section 320 CrPC. Be that as it may, this Court is inclined to invoke the inherent",,,

jurisdiction under section 482 CrPC to quash the FIR and all subsequent proceedings in the peculiar facts and circumstances.,,,

11. In Himachal Pradesh Cricket Association v State of Himachal Pradesh, 2018 (4) Crimes 324, Honâ??ble Supreme Court holds â??[47]. As far",,,

as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the",,,

reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their",,,

petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold",,,

that FIR needs to be quashed, order of cognizance would automatically stands vitiated.â??",,,

12. In Shakuntala Sawhney v Kaushalya Sawhney, (1979) 3 SCR 639, at p 642, Honâ??ble Supreme Court observed that the finest hour of Justice",,,

arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.",,,

13. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the Code of",,,

Criminal Procedure is invoked to quash the proceedings mentioned above. The FIR mentioned above is quashed, and all the consequential proceedings",,,

are also quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.",,,

In the facts and circumstances peculiar to this case, the petition is allowed in the aforementioned terms.",,,