

(2019) 02 MP CK 0049

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 680 Of 2017, 6343 Of 2019

Anurag Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 15-02-2019

Acts Referred:

Constitution Of India, 1950 — Article 142
Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 406, 498A, 506
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2019) 02 MP CK 0049

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : Akash Rathi, Lokesh Mehta, Akshay Bhonde

Final Decision : Allowed

Judgement

The petitioner no.1/husband Anurag in MCRC.No.6343/2019 and respondent no.2/wife Smt. Kavita are present in person.

Heard.

This MCRC under Section 482 of the Cr.P.C has been filed for quashing of FIR in Crime No.578/2016 registered on 7.8.2016 in Police Station Neelganga , District Ujjain and consequential charge sheet which has been filed in pursuance thereto.

Learned counsel appearing for the petitioners submits that the parties being husband and wife have amicably settled the matter and now both of them are residing together since August, 2017. He submits that the respondent no.2/Wife does not want any action against her husband in the change circumstances but since the offence is non-compoundable; therefore, the petition has been filed.

Learned counsel for the respondent no.2 has also supported the case of the petitioners.

The parties present before this Court have also submitted that the proceedings be quashed.

The record reflects that on the basis of aforesaid FIR offence under Section 498-A, 506, 34 of IPC have been registered against the petitioners. In MCRC.No.6343/2019, the petitioners are husband, Father-in-Law and Mother-in-Law of respondent no.2 and in MCRC.No.680/2017, the petitioners are the Brother-in-Law and Sister-in-Law of respondent no.2. The matter relates to a matrimonial dispute and now the dispute has been settled, therefore, it would be in the interest of justice to put to an end to this litigation. Only because of technical issue of offence being non-compoundable, the matter is pending.

The Hon'ble Supreme Court in the similar circumstances in the matter of Jitendra Raghuvanshi and others Vs. Babita Raghuvanshi and another reported in (2013) 4 SCC 58 has held as under:-

"8) It is not in dispute that matrimonial disputes have been on considerable increase in recent times resulting in filing of complaints under Sections 498A and 406 of IPC not only against the husband but also against the relatives of the husband. The question is when such matters are resolved either by the wife agreeing to rejoin the matrimonial home or by mutual settlement of other pending disputes for which both the sides approached the High Court and jointly prayed for quashing of the criminal proceedings or the FIR or complaint by the wife under Sections 498A and 406 of IPC, whether the prayer can be declined on the sole ground that since the offences are non-compoundable under Section 320 of the Code, it would be impermissible for the Court to quash the criminal proceedings or FIR or complaint.

9) It is not in dispute that in the case on hand subsequent to the filing of the criminal complaint under Sections 498A and 406 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, with the help and intervention of family members, friends and well-wishers, the parties concerned have amicably settled their differences and executed a compromise/settlement. Pursuant thereto, the appellants filed the said compromise before the trial Court with a request to place the same on record and to drop the criminal proceedings against the appellants herein. It is also not in dispute that in addition to the mutual settlement arrived at by the parties, respondent-wife has also filed an affidavit stating that she did not wish to pursue the criminal proceedings against the appellants and fully supported the contents of the settlement deed. It is the grievance of the appellants that not only the trial Court rejected such prayer of the parties but also the High Court failed to exercise its jurisdiction under Section 482 of the Code only on the ground that the criminal proceedings relate to the offences punishable under Sections 498A and 406 of IPC which are non-compoundable in nature.

10) Learned counsel for the parties, by drawing our attention to the decision of this Court in B.S. Joshi and Others vs. State of Haryana , submitted that in an

identical circumstance, this Court held that the High Court in exercise of its inherent powers under Section 482 can quash criminal proceedings in matrimonial disputes where the dispute is entirely private and the parties are willing to settle their disputes amicably.

11) It is not in dispute that the facts in B.S. Joshi are identical and the nature of the offence and the question of law involved are almost similar to the one in hand.

12) After considering the law laid down in State of Haryana vs. Bhajan Lal, and explaining the decisions rendered in Madhu Limaye vs. State of Maharashtra, Surendra Nath Mohanty & Anr. vs. State of Orissa, and Pepsi Foods Ltd. vs. Special Judicial Magistrate, this Court held: (B.S.Joshi Case, SCC p.680,para 8)

"8. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power."

Considering matrimonial matters, this Court also held:

(B.S.Joshi Case, SCC p.680,para 12)

"12. The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes."

13) As stated earlier, it is not in dispute that after filing of a complaint in respect of the offences punishable under Sections 498A and 406 of IPC, the parties, in the instant case, arrived at a mutual settlement and the complainant also has sworn an affidavit supporting the stand of the appellants. That was the position before the trial Court as well as before the High Court in a petition filed under Section 482 of the Code. A perusal of the impugned order of the High Court shows that because the mutual settlement arrived at between the parties relate to non-compoundable offence, the court proceeded on a wrong premise that it cannot be compounded and dismissed the petition filed under Section 482. A perusal of the petition before the High Court shows that the application filed by the appellants was not for compounding of non-compoundable offences but for the purpose of quashing the criminal proceedings.

14) The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In B.S. Joshi, this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

15) In our view, it is the duty of the courts to encourage genuine settlements of

matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16) There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.

17) In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code. Under these circumstances, we set aside the impugned judgment of the High Court dated 04.07.2012 passed in Rajendra Singh Raghuvanshi Vs. Aarkshi Kendra Police Mahila Thana and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore. "

The circumstances in the present case are almost the same. The respondent no.2 does not want any action against her husband and rightly so because subsequently the matter has been compromised and both husband and wife are residing together.

In the aforesaid circumstances, a case for quashing the pending proceedings is made out. Accordingly, MCRC.No.6343/2019 and MCRC.No.680/2017 are allowed. FIR in Crime No.578/2016 and proceedings in pursuance thereto are hereby quashed.