
(2004) 07 P&H CK 0114
In the Punjab And Haryana At Chandigarh
Case No : Criminal M. No. 22952-M of 2004

Bharat Bhushan Madan

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 29-07-2004

Acts Referred:

Citation : (2004) 3 CCC 122 : (2004) 4 RCR(Criminal) 426

Hon'ble Judges : S.S.Saron, J

Advocate : Shri R.K. Jain, Advocate. Shri Sudhir Nehra, AAG, Haryana with Shri Gulam Mohd. ASI, PS City Gurgaon. Ms. Minakshi, respondent in person.,
Advocates for appearing Parties

Judgement

S.S. Saron, J.

1. This is a petition under Section 482 Cr.P.C. for quashing case FIR No. 239 dated 21.4.1998 (Annexure P1) registered under Sections 498A, 406, 323 and 506 IPC at Police Station City Gurgaon, which has been registered on the complaint of respondent No. 2.

2. The complainant (respondent No. 2) was married with the petitioner on 4.12.1996. No child was born out of the wedlock. The petitioner and respondent No. 2 have not cohabited as husband and wife for the past 5/6 years. Respondent No. 2 got registered the aforesaid FIR against the petitioner and his father Amrit Lal Madan as also his mother Smt. Sudarshan and Ram Lal Madan and Indu Dhir. The challan was presented in the court of learned Chief Judicial Magistrate, Gurgaon and the learned Trial Magistrate vide his order dated 16.9.1999 (Annexure P2) framed charged against the petitioner and his father Sh. Amrit Lal Madan for having committed offences punishable under Sections 498A, 323 and 506 IPC. During the pendency of the said criminal case, the petitioner and respondent No. 2 arrived at a settlement which was reduced into writing on 5.1.2004. The memorandum of settlement was signed by both the parties as also Shri Amrit Lal Madan, Dolly Sharma and Dr. H.R. Batra. The copy of the memorandum of settlement (Annexure P3) has been placed on record. In

terms of the settlement, both the parties decided to bury their disputes finally and respondent No. 2 was to receive a sum of Rs. 5,40,000/-. It was also agreed to file a joint petition for dissolution of marriage and also a joint petition under Section 482 Cr.P.C. before this court for quashing the proceedings. In terms of the settlement, a petition (Annexure P4) was filed for dissolving the marriage between the parties by mutual consent. The joint statement of the petitioner and respondent No. 2 was recorded by the learned District Judge, Gurgaon on 7.1.2004 (Annexure P5).

3. Today, when the case was taken up for hearing, Shri R.K. Jain, advocate submitted that the learned District Judge, Gurgaon has passed a decree for divorce on 27.7.2004 by mutual consent and marriage between the petitioner and respondent No. 2 stands dissolved by a decree of divorce. He has filed photocopy of the said judgment and decree dated 27.7.2004.

4. Respondent No. 2 is present in person and she has been identified by Shri R.K. Jain, advocate. She had earlier filed an affidavit dated 22.7.2004 and had deposed that she has settled all disputes with the husband in terms of memorandum of settlement and she has no objection if the petition is allowed and the FIR No. 239 dated 21.4.1998 (Annexure P1) registered under Sections 498A, 406, 323 and 506 IPC at Police Station City Gurgaon, is quashed. Today she has also made a statement on oath to the effect that she has no objection if the FIR is quashed against the petitioner as also his father Sh. Amrit Lal Madan, besides she has received demand drafts of Rs. 4,40,000/- drawn on the Syndicate Bank, Gurgaon. The photocopies of the demand drafts have been submitted, which are taken on record.

5. In view of the aforesaid circumstances, Shri R.K. Jain, learned advocate submits that keeping in view the fact that the parties have amicably settled the matter, the FIR in question may be quashed.

6. Shri Sudhir Nehra, learned AAG, Haryana on instructions from Shri Gulam Mohd. ASI, PS City Gurgaon states that the State would have no objection in quashing of the FIR in case there has been a bona fide settlement between the petitioner and respondent No. 2.

7. I have given my thoughtful consideration to the respective contentions of the learned counsel for the parties. It is appropriate to note that the dispute between the parties is a matrimonial one, which the parties have amicably settled. Smt. Minakshi Madan (respondent No. 2) has deposed an affidavit dated 22.7.2004 and also made a statement on oath in court today that she has no objection to the quashing of the FIR, besides she has received demand drafts amounting to Rs. 4,40,000/- in the court today. A sum of Rs. 1 lac was received by her earlier in terms of the memorandum of settlement dated 5.1.2004 (Annexure P3).

8. The Hon''ble Supreme Court in the case of B.S. Joshi and others v. State of Haryana, 2003(2) RCR(Crl.) 888 (SC) : 2003 Crl. L.J. 2028 has held that where proceedings have been initiated by the wife against her husband and his relatives

and subsequently she settled the dispute, it is appropriate for the purpose to secure the ends of justice to quash the FIR. In the circumstances, it was held, that it would be improper to decline exercise of inherent power vested in this court to compromise noncompoundable offence. Therefore, in the case in hand, even though, some of the offences are noncompoundable, however, to meet the ends of justice, it will be just and expedient to quash the FIR. In the aforesaid case, it was also held that Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. Thus, this court in exercise of its inherent powers can quash the FIR and the proceedings consequent thereto and Section 320 Cr.P.C. does not limit or affect the powers of this court, besides, it is the duty of the court to encourage genuine settlements of matrimonial disputes.

6. In the case in hand, where the complainant (respondent No. 2) is supporting the quashing of the FIR, it is evident that there is almost no chance of conviction. Even otherwise, nonexercise of inherent power would prevent the woman from settling and that way against the object of Section 498A IPC. Therefore, keeping in view that the parties have amicably settled the dispute and also the fact that there is no chance of conviction being recorded, it will be in the interest of justice to put the matter to an end by quashing the proceedings.

8. For the foregoing reasons, this petition is allowed and the case FIR No. 239 dated 21.4.1998 (Annexure P1) registered under Sections 498A, 406, 323 and 506 IPC at Police Station City Gurgaon and all consequential proceedings in pursuance thereof including the charge framed on 16.9.1999 (Annexure P2) shall stand quashed.

In the circumstances, the parties shall bear their own costs.