

(2020) 02 J&K CK 0009
In the Jammu And Kashmir High Court
Case No : CRM(M) No. 697 Of 2019

Dalbir Singh And Anr

APPELLANT

Vs

Union Territory Of J&K And Anr

RESPONDENT

Date of Decision : 05-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482, 488, 489
Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 34, 498(A)

Citation : (2020) 02 J&K CK 0009

Hon'ble Judges : Sindhu Sharma, J

Bench : Single Bench

Advocate : Pawan Kumar Manni, Amit Gupta, Zoya Bhardwaj

Final Decision : Allowed

Judgement

1. The petitioner has approached this Court under section 482 Cr.P.C. seeking invocation of inherent powers of this Court for quashing FIR No.

35/2012 dated 12.12.2012 registered at Police of Police Station Gandhi Nagar, Jammu, which has culminated into charge sheet, challan/proceeding in

case State vs. Dalbir Singh and anr. for commission of offences under Sections 498-A/34 RPC pending before the Court of learned Sub-Registrar,

Judicial Magistrate, 1st Class, Jammu.

2. Petitioner No. 1 and respondent No. 2 are husband and wife and the marriage was solemnized on 19.11.2010 as per Sikh rites in Jammu. Out of

their wedlock, one female child namely Akaalpreet Kour was born on 30.07.2011. The relation between the parties became strained and there was

marital discard, as a result of which, respondent No. 2 filed a complaint under Section 498-A which was forwarded to SHO Police Station Women

Cell, Jammu with direction to investigate the matter. In pursuance of this, FIR

was registered by respondent/State and chargesheet/challan was presented in the Court of learned Sub-Registrar, Judicial Magistrate, 1st Class, Jammu and in which next date of hearing is fixed on 20.02.2020.

3. Respondent No. 2 had filed a petition under Section 488 Cr.P.C. for grant of maintenance which was allowed and subsequently, another petition under Section 489 Cr.P.C. for enhancement of maintenance was filed. During the pendency of the various proceedings, the parties have decided to settle their dispute amicably and have entered into a compromise. Perusal of the Compromise Deed reveals that they have mutually agreed to dissolve their marriage by way of Compromise Deed and in terms of the Compromise Deed, they have decided to close all the cases pending between them and live a life of harmony.

4. Petitioners and respondent No. 2 appeared in person and are duly identified by their respective counsels. Their statements have also been recorded today. They state that they have settled their dispute amicably out of their own free will and without any external pressure or coercion. Respondent No. 2/Complainant-Harmeet Kour has stated that she has no objection if the FIR lodged by her alongwith consequential proceedings in the case titled State vs Dalbir Singh & anr. pending before the Court of learned Sub-Registrar, Judicial Magistrate, 1st Class, Jammu are quashed. Her statement is taken on record.

5. Similar issue was considered by the Honâ??ble Apex Court in Narinder Singh & ors. versus State of Punjab & ors., (2014) 6 SCC 466, vide which the guidelines were framed for accepting the settlement for quashing the proceedings or refusing to accept the settlement with direction to continue with criminal proceeding. Paragraph Nos. 29.3 & 29.4 are reproduced below:-

29.3 Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4 On the other, those criminal cases having overwhelmingly and pre-

dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

6. Therefore, such power is not to be exercised in prosecutions which involve heinous & serious offences of mental depravity like murder, rape, dacoity, etc.

7. In the present case also, the offence alleged against the petitioner does not fall within the offences of heinous nature of mental depravity, like murder, rape, dacoity as such, rather it arises out of the matrimonial relationship and family dispute. Keeping in view the nature of the allegations and considering the fact that the parties have settled their dispute and their statement had been recorded and the complainant has specifically stated that she has no objection if FIR as stated above is quashed.

8. In *Jitendra Raghuvanshi & ors. vs. Babita Raghuvanshi & anr.*, 2013 0 Supreme (SC) 247, the Honâ??ble Apex Court has held in Para 12 as under:

â??12. 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.â??

9. In view of the compromise, possibility of conviction is bleak and continuation of criminal proceedings will cause grave injustice to the parties who are no longer interested in pursuing the same.

10. In view of the aforesaid discussion as well as law laid down by the Honâ??ble Apex Court, this petition is allowed, FIR No. 35/2012 and subsequent proceedings pending in the Court of learned Sub-Registrar, Judicial Magistrate, 1st Class, Jammu, in case titled *State Vs. Dalbir Singh & anr.*, are quashed.