
(2019) 11 MP CK 0135

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 24236 Of 2018

Durga Bai Ahirwar And Others

APPELLANT

Vs

State Of Madhya Pradesh And Another

RESPONDENT

Date of Decision : 18-11-2019

Acts Referred:

Constitution Of India, 1950 — Article 142
Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 498A

Citation : (2019) 11 MP CK 0135

Hon'ble Judges : Vidya Prasad, J

Bench : Single Bench

Advocate : Vipin Yadav, Jitendra Singh Parihar

Final Decision : Disposed Of

Judgement

1. This petition has been preferred under section 482 of CrPC on 22.6.2018 by the petitioners Durga Bai Ahirwar, Girish Ahirwar and Vandana Ahirwar for quashment of the proceedings of Criminal Case No.2013/2018 based upon the FIR vide Crime No.92/2018 under section 498-A/34 of IPC pending before the Court of Judicial Magistrate First Class, Jabalpur (Ms.Nidhi Jain).

2. It appears from the record that on 1.4.2018 complainant Seema Ahirwar lodged the first information report at Police Station, Vijay Nagar, District Jabalpur (M.P.) at police station Vijay Nagar District against the petitioners. Upon the basis of that report, police registered Crime No.92/2018 under section 498-A/34 of IPC. After investigation, the police filed Challan No.80/2018 before the Judicial Magistrate First Class on 1.5.2018; where the Case No.2013/2018 was registered.

3. It is submitted by the counsel for petitioners that the matter has been compromised between the parties. Therefore, the first information report and the other criminal proceedings based upon the FIR should be quashed.

4. On 27.6.2019 Application No.12034/2019 was filed by the petitioners for

permission to compromise the case. The application was supported by an affidavit of Girish Ahirwar.

5. On 31.7.2019, it was submitted before the Court by the learned counsel for petitioners that the matter has been settled out of the Court and both parties are agree to send the matter before the Principal Registrar (Judicial) for recording the statement. Upon the basis of aforesaid submission, the Court directed the parties to remain present before the Principal Registrar (Judicial) on 5.8.2019. The report of Principal Registrar (Judicial) dated 5.8.2019 has been received along with the statements of Girish Ahirwar, Durga Ahirwar, Vandana Ahirwar and complainant Seema Ahirwar. It is mentioned in the statement of Seema Ahirwar that she has compromised the matter with the accused persons and she has also received 3 cheques of Rs.5,00,000/- each on 5.8.2019. It is also submitted that the case related to the Domestic Violence Act has also been compromised between the parties. She is agree to compound the offence without any fear and she does not want any further proceeding in this case.

6. Detailed ordersheet of the Principal Registrar (Judicial) shows that the matter has been voluntarily compromised between the parties. But as per section 320 of CrPC, Section 498-A is not compoundable.

7. It is submitted by the counsel that in the matrimonial cases if the matter is compromised, then the Court should adopt a liberal approach to quash the proceedings.

8. After considering the law laid down in some previous cases, the Apex Court said in the case of B.S.Joshi Vs. State of Haryana (2003) 4 SCC 675 that the High Court in exercise of its inherent power under section 482 of CrPC can quash the criminal proceedings in matrimonial disputes and the dispute is entirely private and the parties are willing to settled their dispute amicably. The Court said in Para 8 that:-

"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, the Apex Court also held in 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."

9. In the same situation in the case of Jitendra Raghuwanshi Vs. Babita Raghuwanshi (2013) 4 SCC 58, the Supreme Court observed 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 end 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. The Court held in Paras 15 and 16 as under:-

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 their 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."

10. Therefore, as per law laid down in the aforesaid cases and also in the case of Gyan Singh Vs. State of Punjab (2012) 10 SCC 303 and Narendra Singh and another (2014) 6 SCC 466 it is apparent that if for the purpose of securing the ends of justice, quashing of FIR become necessary, Section 320 of the Code would not be 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. In case of matrimonial matters, it becomes the duty of the Court to encourage genuine settlement of matrimonial dispute.

11. It appears from the record that the marriage of complainant/respondent no.2 Seema Ahirwar was solemnized with Kulwant Ahirwar on 6.2.2010. Husband Kulwant expired on 7.12.2017. The FIR was lodged by the complainant on 1.4.2018. It appears that the FIR was lodged after the death of husband. Petitioner no.1 is the mother-in-law, petitioner no.2 is the brother-in-law and petitioner no.3 is the sister-in-law (Devrani) of the complainant.

12. Because the husband has been died and the matter has been compromised between the parties voluntarily and they want to settle their dispute and to reside peacefully, therefore, looking to the law laid down by the Apex Court, the proceedings based upon the FIR are liable to be quashed.

12. Hence, the petition is allowed and the FIR of Crime No.92/2018 registered at Police Station Vijay Nagar, District Jabalpur against the petitioners and other subsequent proceedings based upon the aforesaid FIR are hereby quashed. The bail bond of the petitioners will be treated as discharged.

Resultantly, the petition is allowed and disposed of.