
(2019) 01 SHI CK 0027
In the High Court Of Himachal Pradesh
Case No : Cr. MMO No. 49 Of 2019

Gurkiran Kaur And Ors	Vs	APPELLANT
State Of Himachal Pradesh		RESPONDENT

Date of Decision : 24-01-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 406, 498A
Dowry Prohibition Act, 1961 — Section 4
Constitution Of India, 1950 — Article 142, 226

Citation : (2019) 01 SHI CK 0027

Hon'ble Judges : Chander Bhusan Barowalia, J

Bench : Single Bench

Advocate : Leena Guleria, Narinder Guleria, Adarsh Sharma, Y.K. Pathak

Final Decision : Disposed Off

Judgement

Chander Bhusan Barowalia, J

1. The present petition is maintained by the petitioners under Section 482 of the Code of Criminal Procedure (hereinafter to be called as "the Code") for quashing of F.I.R No. 536/2018, dated 13.11.2018, under Sections 406, 498-A read with Section 34 of the Indian Penal Code and Section 4 of Dowry Prohibition Act, 1961, registered at Police Station, Una, District Una, H.P.

2. Briefly stating the facts, giving rise to the present petition are that on 20.5.2018, petitioner No.1/complainant was married to petitioner No.2-Parmod Kumar, in accordance with Sikh rites and customs at Gurudwara Baba Jawahar Singh Ji, Village Majara, P.O. Sanoli, Tehsil and District Una.

As per petitioner No.1/complainant, behaviour of accused persons were remained cordial, only for few days, thereafter, all the accused persons started harassment and maltreatment on account of the demands of dowry and saying that her father is businessmen and has not given a single penny in the marriage and

demanding Rs.ten lacs. It is further submitted that petitioner No.1/complainant did not disclose this fact to her parents that the accused persons are harassing her for bringing Rs.ten lacs. As per petitioner No.1, due to the intervention of elder family members and other respectful persons of the society, the parties have to settle the matrimonial dispute amicably without any fear and pressure have resolved the matter. Now, the parties have entered into a compromise, vide written compromise, dated 26.12.2018, (Annexure P-2) and do not want to pursue the case against each other. Hence, the present petition.

3. Learned counsel appearing on behalf of the petitioners has argued that as the parties have compromised the matter, vide written compromise (Annexure P-2), no purpose will be served by keeping the proceedings against the petitioners and the FIR/Challan, may be quashed and set aside.

4. On the other hand, learned Additional Advocate General has argued that the offence is not compoundable, so the present petition may be dismissed.

5. To appreciate the arguments of learned counsel appearing on behalf of the parties, I have gone through the entire record in detail.

6. Their Lordships of the Hon'ble Supreme Court B.S. Joshi and others vs. State of Haryana and another, (2003) 4 SCC 675, have held 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 well settled that the powers under section 482 have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers. Their Lordships have held as under:

[6] In Pepsi Food Ltd. and another v. Special Judicial Magistrate and others ((1998) 5 SCC 749), this Court with reference to Bhajan Lal's case observed that the guidelines laid therein as to where the Court will exercise jurisdiction under Section 482 of the Code could not be inflexible or laying rigid formulae to be followed by the Courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any Court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers.

[8] It is, thus, clear that Madhu Limaye's case does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extraordinary power under Article 226 of the Constitution of India. 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.

[15] In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.

7. Their Lordships of the Hon'ble Supreme Court in *Preeti Gupta and another vs. State of Jharkhand and another*, (2010) 7 SCC 667, have held that the ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. The criminal trials lead to immense sufferings for all concerned. Their Lordships have further held that permitting complainant to pursue complaint would be abuse of process of law and the complaint against the appellants was quashed. Their Lordships have held as under:

[27] A three-Judge Bench (of which one of us, Bhandari, J. was the author of the judgment) of this Court in *Inder Mohan Goswami and Another v. State of Uttaranchal & Others*, 2007 12 SCC 1 comprehensively examined the legal position. The court came to a definite conclusion and the relevant observations of the court are reproduced in para 24 of the said judgment as under:-

"Inherent powers under section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute."

[28] We have very carefully considered the averments of the complaint and the statements of all the witnesses recorded at the time of the filing of the complaint. There are no specific allegations against the appellants in the complaint and none of the witnesses have alleged any role of both the appellants.

[35] The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

[38] The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.

8. Their Lordships of the Hon'ble Supreme Court in *Jitendra Raghuvanshi and others vs. Babita Raghuvanshi and another*, (2013) 4 SCC 58, have held that criminal proceedings or FIR or complaint can be quashed under section 482 Cr.P.C. in appropriate cases in order to meet ends of justice. Even in non-compoundable offences pertaining to matrimonial disputes, if court is satisfied that parties have settled the disputes amicably and without any pressure, then for purpose of securing ends of justice, FIR or complaint or subsequent criminal proceedings in respect of offences can be quashed. Their Lordships have held as under:

[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 M.C.R.C. No. 2877 of 2012 and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore."

9. Thus, taking into consideration the law as discussed hereinabove, I find that the interest of justice will be met, in case, the proceedings are quashed, as the parties have already compromised the matter, as per Compromise (Annexure P-2), placed on record.

10. Accordingly, looking into all attending facts and circumstances, I find this case to be a fit case to exercise jurisdiction vested in this Court, under Section

482 of the Code and accordingly F.I.R No.536 of 2018, dated 13.11.2018, under Sections 406, 498-A read with Section 34 of the Indian Penal code and Section 4 of Dowry Prohibition Act, 1961, registered at Police Station, Una, District Una pending before the learned Court below, is ordered to be quashed and consequently, the proceedings pending before the learned Magistrate arising out of the aforesaid FIR, are also ordered to be quashed.

11. The petition is accordingly disposed of alongwith pending applications, if any.