
(2018) 08 RAJ CK 0041

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 2377 of 2018

Jinendra Vaya, Vishal Vaya @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 08-08-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 406, 498A

Citation : (2018) 08 RAJ CK 0041

Hon'ble Judges : VIJAY BISHNOI, J

Bench : Single Bench

Advocate : R.S. Mankad, M.S. Panwar, C.S. MundrC.S. Mundra

Final Decision : Allowed

Judgement

This criminal misc. petition under Section 482 Cr.P.C. has been preferred by the petitioner with the prayer for quashing the proceedings pending

against him before the Additional Chief Judicial Magistrate No.2, Udaipur (hereinafter to be referred as 'the trial court') in Criminal Case No.297/2017

rising out of FIR No.34/2017 of Women Police Station, Udaipur, whereby the trial court vide order dated 13.07.2018 has attested the compromise for

the offence punishable under Section 406 IPC but refused to attest the compromise for the offence punishable under Section 498-A IPC as the same

is not compoundable.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2, the FIR No.34/2017 was registered at Women Police

Station, Udaipur against the petitioner.Â After investigation, the police filed challan against the petitioner for offences punishable under Sections 406

and 498-A IPC in the trial court wherein the trial is pending against the petitioner for the aforesaid offence.Â During the pendency of the trial, an

application was preferred on behalf of the petitioner as well as the respondent No.2 while stating that both the parties have entered into compromise

and, therefore, the proceedings pending against the petitioner may be terminated.Â The trial court vide order dated 13.07.2018 allowed the parties to

compound the offence punishable under Section 406 IPC, however, rejected the application so far as it relates to compounding the offence punishable

under Section 498-A IPC.Â

The present criminal misc. petition has been preferred by the petitioner for quashing the said proceedings against him.

Learned counsel for the petitioner has argued that as the complainant-respondent No.2 and the petitioner have already entered into compromise and

on the basis of it, the petitioner has been acquitted for the offence punishable under Section 406 IPC, there is no possibility of conviction of the

petitioner for the offence punishable under Section 498-A IPC. It is also contended by learned counsel for the petitioner that the parties have decided

to live together happily by mutual consent. It is also argued that no useful purpose would be served by continuing the trial against the petitioner for the

offence punishable under Section 498-A IPC because the same may derail the compromise arrived at between the parties.

Learned counsel for the respondent No.2 has admitted that the parties have already entered into compromise and decided to live together happily and

the respondent No.2 does not want to press the charges levelled against the petitioner in relation to offence punishable under Section 498-A

IPC.

The Hon'ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab & Anr. reported in JT 2012(9) SC 426 has

held as below:-

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding

or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the

offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the

guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to

quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

Having considered the facts and circumstances of the case and looking to the fact that the petitioner and respondent no.2 have settled their

matrimonial dispute amicably and decided to live together by mutual consent, there is no possibility of accusedpetitioner being convicted in the case

pending against him. When once the matrimonial disputes has been settled by the mutual compromise, then no useful purpose would be served by

keeping the criminal proceedings pending.

Keeping in view the observations made by the Hon'ble Supreme Court in Gian Singh's case (supra), this Court is of the opinion that it is a fit case,

wherein the criminal proceedings pending against the petitioner can be quashed while exercising powers under Section 482 Cr.P.C.

Accordingly, this criminal misc. petition is allowed and the criminal proceedings pending against the petitioner before the Additional Chief Judicial

Magistrate No.2, Udaipur in Criminal Case No.297/2017 arising out of FIR No.34/2017 of Women Police Station, Udaipur are hereby quashed.