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(2016) 07 DEL CK 0029

In the Delhi High Court

Case No : CRL.M.C. 118 of 2016

Sandeep Kumar — APPELLANT

Vs

State (Govt. of NCT of Delhi) — RESPONDENT

Date of Decision : 15-07-2016

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 406, 498A

Citation : (2016) 7 ADDelhi 449

Hon'ble Judges : Mr. P.S. Teji, J.

Bench : Single Bench

Advocate : Mr. Satish Kumar, Advocate, for the Appellant; Ms. Meenakshi Chauhan, Additional Public Prosecutor for the State with Sub-Inspector Ashwani Ambariya, Police Station M.S. Park, Delhi, for the Respondent

Final Decision : Disposed Off

Judgement

P.S. Teji, J.—The present petition under Section 482 Cr.P.C. has been filed by the petitioners, namely, Sh. Sandeep Rana, Smt. Imarti, Sh. Amar, Smt. Shilpi, Sh. Navin, Smt. Babita and Sh. Parvinder for quashing of FIR No. 130/2014 dated 24.02.2014, under Sections 498-A/406/34 IPC and registered at Police Station Jyoti Nagar on the basis of the mediation report arrived at Mediation Centre, Karkadooma Courts, Delhi between petitioner no.1 and respondent no.2, namely, Smt. Reena Basia.

2. Learned Additional Public Prosecutor for respondent-State submit that the respondent No.2, present in the Court has been identified to be the complainant/ first-informant of the FIR in question by SI Ram Kishan.

3. The factual matrix of the present case is that the marriage was solemnized between petitioner no.1 and the respondent no.2 on 29.10.2009 as per Hindu rites and ceremony. The dowry articles given in marriage seemed insufficient to the husband of the complainant and to her in-laws. On 30.10.2009, at the event of jagran at the matrimonial home of the complainant, the complainant was

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beaten by her in-laws and locked in a room upon refusing to serve alcohol and to accompany the husband of the complainant and his friends. On 24.12.2010, the complainant had delivered a child, namely Swastik, the expenses of which were borne by the parents of the complainant. On 12.05.2012, the husband of the complainant along with his brother and friends came over to the parental house of the complainant and started to abuse her and beat her and when the parents of the complainant tried to intervene, the said persons beat up complainant''s father too. The complainant''s father fainted due to the injuries due to which the said attackers ran away after threatening to kill the complainant if she complained to the Police.

Thereafter, the complainant got lodged the complaint after which FIR in question was registered against the petitioners. Thereafter, the matter was settled between the accused persons and the respondent no.2 in the mediation centre.

4. Respondent No.2, present in the Court, submit that the dispute between the parties has been amicably resolved. As per the mediation report, it is agreed between the parties that petitioner no.1 shall pay a sum of Rs. 8,25,000/- to the respondent no.2 in full and final settlement towards all her claims arising out of the marriage between them included maintenance (past, present and future), permanent alimony, istridhan and dowry articles. It is agreed that as per the settlement the petitioner no.1 has already paid a sum of Rs. 2,50,000/- to respondent no.2 at the time of recording of statement in the first motion petition and Rs. 2,50,000/- at the time of Second motion petition. It is agreed that the remaining amount of Rs. 3,25,000/- shall be paid at the time of quashing of the FIR in question before this Court. It is agreed that the parties have withdrawn their respective cases against each other or their family members. It is also agreed that the custody of Master Swastik shall remain with his mother/ respondent no.2 and that petitioner no.1 shall have visitation rights to meet the child twice a month i.e. on second and fourth Saturdays between 4 to 6 P.M. at Sri Ram Park, East Jyoti Nagar, Delhi. Respondent No.2 affirmed the contents of the aforesaid settlement and of her affidavit dated 30.10.2015 supporting this petition. In the affidavit, she has stated that she has no objection if the FIR in question is quashed. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end. Statement of the respondent No.2 has been recorded in this regard in which she stated that she has entered into a compromise with the petitioners and has settled all the disputes with them. She further stated that she has no objection if the FIR in question is quashed.

5. In Gian Singh v. State of Punjab, (2012) 10 SCC 303 Apex Court has recognised the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

"61. 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 proceedings or

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continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings."

6. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in Narinder Singh v. State of Punjab, (2014) 6 SCC 466. The relevant observations of the Apex Court in Narinder Singh (Supra) are as under:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to 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 the 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 hand, those criminal cases having overwhelmingly and predominantly 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.

7. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no.2

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agrees to the quashing of the FIR in question without any threat or coercion or undue influence and has stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

8. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

9. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon''ble Apex Court in the case of State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors. and in the case of Inder Singh Goswami v. State of Uttaranchal has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi and others v. State of Haryana and another, 2003 (4) SCC 675 the Hon''ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon''ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon''ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 498A IPC is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is

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otherwise satisfied that the facts and circumstances of the case so warrant.

11. The Courts in India are now normally taking the view that endeavour should be taken to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs such as, matrimonial disputes between the couple or/and between the wife and her in-laws. India being a vast country naturally has large number of married persons resulting into high numbers of matrimonial disputes due to differences in temperament, life-styles, opinions, thoughts etc. between such couples, due to which majority is coming to the Court to get redressal. In its 59th report, the Law Commission of India had emphasised that while dealing with disputes concerning the family, the Court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. Further it is also the constitutional mandate for speedy disposal of such disputes and to grant quick justice to the litigants. But, our Courts are already over burdened due to pendency of large number of cases because of which it becomes difficult for speedy disposal of matrimonial disputes alone. As the matrimonial disputes are mainly between the husband and the wife and personal matters are involved in such disputes, so, it requires conciliatory procedure to bring a settlement between them. Nowadays, mediation has played a very important role in settling the disputes, especially, matrimonial disputes and has yielded good results. The Court must exercise its inherent power under Section 482 Cr.P.C. to put an end to the matrimonial litigations at the earliest so that the parties can live peacefully.

12. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility and is a fit case for this Court to exercise its inherent jurisdiction.

13. In the facts and circumstances of this case, in view of statement made by the respondent No.2 and the compromise arrived at between the parties, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

14. Accordingly, this petition is allowed and FIR No. 130/2014 dated 24.02.2014, under Sections 498-A/406/34 IPC registered at Police Station Jyoti Nagar and the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

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