

(2023) 08 SHI CK 0058
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 800 Of 2023

Saurabh Mahajan & Others

APPELLANT

Vs

State Of Himachal Pradesh & Another

RESPONDENT

Date of Decision : 08-08-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 323, 498A, 506

Citation : (2023) 08 SHI CK 0058

Hon'ble Judges : Sushil Kukreja, J

Bench : Single Bench

Advocate : Ajay Kochhar, Vivek Sharma, B.N. Sharma, N.K. Bhalla

Final Decision : Disposed Of

Judgement

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Sushil Kukreja, J

1. The accused persons (petitioners herein) after compromising the matter with complainant/respondent No. 2, have come up before this Court under Section 482 Cr.P.C., by invoking inherent powers of this Court, seeking quashing of FIR No. 152 of 2020, dated 04.05.2020, under Sections 498-A, 323 and 506 of Indian Penal Code(for short "IPC"), registered at Police Station Balh, District Mandi, H.P..

2. The present FIR was lodged by Complainant-respondent No. 2, Smt. Shubhra Mahajan, who is duly represented and identified by Mr. N.K. Bhalla, Advocate.

3. Today, complainant/respondent No.2 as well as petitioners No. 1 and 2 are present in person before this Court and the statements of complainant/respondent No. 2 and petitioners No. 1 and 2 have been separately recorded and placed on the file.

4. In her statement, complainant/respondent No.2 stated that on the basis of her

complaint, FIR No. 152 of 2020, dated 04.05.2020, under Sections 498-A, 323 and 506 IPC was registered against the petitioners/accused persons at Police Station Balh, District Mandi, H.P.. She has further stated that now with the intervention of the learned Mediator, appointed by this Court, they have settled the matter by dissolving the marriage on the terms and conditions entered into between them, enumerated in order dated 27.07.2023, Annexure P-2, passed in CMPMO No. 86 of 2023. She has also stated that in view of the terms and conditions enumerated in order dated 27.07.2023, Annexure P-2, passed by this Court, she has no objection in case the aforesaid FIR and the consequent proceedings arising out of the said FIR, pending before learned Chief Judicial Magistrate Mandi, District Mandi, H.P., are quashed and set-aside.

5. Petitioner No. 1, Shri Saurabh Mahajan and petitioner No. 2, Shri Bhupinder Paul Mahajan, stated in one voice that FIR No. 152 of 2020, dated 04.05.2020, under Sections 498-A, 323 and 506 IPC was registered against them and their family members. They further stated that now with the intervention of the learned Mediator, appointed by this Court, the parties have settled the matter by dissolving the marriage on the terms and conditions entered into between them, enumerated in order dated 27.07.2023, Annexure P-2, passed in CMPMO No. 86 of 2023. They have also stated that in view of the terms and conditions enumerated in order dated 27.07.2023, Annexure P-2, passed by this Court, the aforesaid FIR and the consequent proceedings arising out of the said FIR, pending before learned Chief Judicial Magistrate Mandi, District Mandi, H.P., may be quashed and set-aside.

6. I have heard learned Senior counsel for the petitioners, learned Additional Advocate General for respondent No.1/State as well as the learned counsel for respondent No.2 and also gone through the material available on record.

7. In *Gian Singh Vs. State of Punjab and others*, reported in (2012) 10 SCC 303, explaining that High Court has inherent power under Section 482 of the Code of Criminal Procedure with no statutory limitation, including Section 320 Cr.PC, the Hon'ble Apex Court has held that these powers are to be exercised to secure the ends of justice or to prevent abuse of process of any Court and these powers can be exercised to quash criminal proceedings or complaint or FIR in appropriate cases where offender and victim have settled their dispute and for that purpose no definite category of offence can be prescribed. However, it is also observed that Courts must have due regard to nature and gravity of the crime and criminal proceedings in heinous and serious offences or offences like murder, rape and dacoity etc. should not be quashed despite victim or victim's family have settled the dispute with offender. Jurisdiction vested in High Court under Section 482 Cr.PC is held to be exercisable for quashing criminal proceedings in cases having overwhelming and predominately civil flavour particularly offences arising from commercial, financial, mercantile, civil partnership, or such like transactions, or even offences arising out of matrimony relating to dowry etc., family disputes or other such disputes where wrong is basically private or personal nature where

parties mutually resolve their dispute amicably. It was also held that no category or cases for this purpose could be prescribed and each case has to be dealt with on its own merit but it is also clarified that this power does not extend to crimes against society.

8. Further, the Apex Court in *Parbatbhai Aahir alias Parbathbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and another*, (2017) 9 SCC 641, summarizing the broad principles regarding inherent powers of the High Court under Section 482 Cr.PC. has recognized that these powers are not inhibited by provisions of Section 320 Cr.PC.

9. In case *Narinder Singh and others vs. State of Punjab and others*, reported in (2014) 6 SCC 466 and also in *State of Madhya Pradesh vs. Laxmi Narayan and others*, (2019) 5 SCC 688, the Hon'ble Supreme Court has summed up and laid down principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercise 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 criminal proceedings.

10. In *Madan Mohan Abbot vs. State of Punjab*, (2008) 4 SCC 582, the Hon'ble Supreme Court emphasized and advised that in the matter of compromise in criminal proceedings, keeping in view the nature of the case, to save the time of the Court for utilizing to decide more effective and meaningful litigation, a common sense approach, based on ground of realities and bereft of the technicalities of law, should be applied.

11. In the instant case, since the matter has been amicably settled between the parties, therefore, keeping in view the nature of the offence, I am of the considered view that no fruitful purpose will be served to continue the proceedings against petitioners/accused, as continuation of the proceedings will be an exercise in futility. The justice in the case demands that the dispute between the parties is put to an end and peace is restored in order to maintain harmonious relations/atmosphere between them.

12. Hence, considering the facts and the circumstances of the case in entirety, I am of the opinion that the present petition deserves to be allowed for securing the ends of justice and, therefore, the same is allowed. Accordingly, FIR No. 152 of 2020, dated 04.05.2020, under Sections 498-A, 323 and 506 IPC, registered against the petitioners/accused persons, at Police Station Balh, District Mandi, H.P., and the consequent proceedings, pending before learned Chief Judicial Magistrate Mandi, District Mandi, H.P., are ordered to be quashed and set-aside.

13. Petition stands disposed of in above terms, so also the pending application(s), if any.