

(2015) 03 RAJ CK 0039

In the Rajasthan High Court

Case No : Criminal Misc. Petition Nos. 2775/2014 and 549/2015

Sheela and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-03-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482, 82, 83
Penal Code, 1860 (IPC) — Section 406, 498-A

Citation : (2015) 03 RAJ CK 0039

Hon'ble Judges : Vijay Bishnoi, J.

Bench : Single Bench

Advocate : Sunil Joshi, for the Appellant; Mahesh Bora, assisted by Arpit Mehta, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Vijay Bishnoi, J.—These criminal misc. petitions under section 482 Cr.P.C. have been preferred by the petitioners with a prayer for quashing the proceedings of Cr. Regular Case No. 282/2013 pending in the Court of Metropolitan Magistrate No. 2, Jodhpur Metropolitan and the FIR No. 95/2011 dated 26.04.2011 of Mahila Police Station, Jodhpur.

2. It is contended by learned counsel for the petitioner that the criminal proceedings were initiated against the petitioners at the instance of respondent No. 2, who lodged the FIR No. 95/2011 dated 26.04.2011 at Police Station, Women, Jodhpur, in which the police, after thorough investigation, has filed charge-sheet against the petitioners for the offences punishable under sections 498-A and 406 IPC and later on the trial court has declared the petitioners as absconder and ordered for issuance of standing warrants against them and also initiated proceedings against them under sections 82 and 83 Cr.P.C.

3. Today, learned counsel for the petitioners has submitted that the matrimonial dispute between the petitioners and respondent No. 2 has been resolved on the basis of compromise arrived at between the parties on 25.02.2015. It is

contended that by mutual consent petitioner Anand Purohit and respondent No. 2 Amita Purohit have decided to live separately and they have filed a joint application before the court concerned for grant of decree of divorce by mutual consent.

4. Mr. Mahesh Bora - learned Senior Advocate assisted by Mr. Arpit Mehta appearing on behalf of respondent No. 2 has also verified that the parties have arrived at amicable settlement and for which an agreement has also been executed between them and, therefore, now the respondent No. 2 does not want to press the allegations levelled against the petitioners in the FIR No. 95/2011. It is submitted by Mr. Bora that if the court proceedings pending against the petitioners are quashed, then respondent No. 2 has no objection.

5. Heard learned counsel for the parties and perused the material on record.

6. From the FIR as well as the other documents, it is clear that there was a matrimonial dispute between the petitioners and respondent No. 2 and the same has now been amicably settled.

7. The Hon'ble Apex Court while answering a reference in the case of Gian Singh Vs. State of Punjab and Another, 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 predominately 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." 8. Having considered the facts and circumstances and looking to the fact that the matrimonial dispute between the parties has amicably settled and both the parties have decided to live separately, there is no possibility of accused-petitioners being convicted in the case pending against them. When once the matrimonial disputes have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings pending.

9. 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 for exercising powers under Section 482 Cr.P.C. for quashing the criminal proceedings against the petitioners.

10. Accordingly, these criminal misc. petitions are allowed. The criminal proceedings in Cr. Regular Case No. 282/2013 pending in the Court of Metropolitan Magistrate No. 2, Jodhpur Metropolitan against the petitioners and the FIR No. 95/2011 dated 26.04.2011 of Mahila Police Station, Jodhpur as well as all subsequent proceedings initiated are hereby quashed.

11. Stay petitions stand disposed of.