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Court : Delhi

Decided On : Mar-09-2016

Judge : P.S. Teji

Appeal No. : Crl.M.C. No. 473 of 2015

Appellant : Arvind and Others

Respondent : The State and Another

Judgement :

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioners, namely, Sh. Arvind, Sh. Mahesh Chandra and Smt. Meera for quashing of FIR No.120/2010 dated 07.06.2010, under Sections 498A/406/34 IPC registered at Police Station Farsh Bazar on the basis of the mediation report of the Delhi Mediation Centre, Karkadooma Courts, Delhi in view of the settlement arrived at between the petitioner no.1 and respondent No.2, namely, Smt. Shalu on 31.01.2012.

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

3. The factual matrix of the present case is that the marriage between the petitioner no.1 and the respondent no.2 was solemnized on 31.01.2009 as per Hindu rites and customs. The accused persons were not satisfied with the gifts

etc. given in the marriage by the mother of the complainant. After the marriage, on the very first day, the mother-in-law of the complainant took all her jewellery and entire stridhan. The accused persons started to torture the complainant for bringing more dowry. The brother-in-law and the mother-in-law of the complainant used to taunt her. The petitioner no.1 was a habitual drinker and he used to give beatings to her. Some times, the brother-in- law of the complainant also used to beat her up. Sister-in-law of the complainant also used to pick quarrel with the complainant on petty matters and used to abuse her. In February, 2009, the complainant was thrown out of her matrimonial home and was asked to bring Rs. 2 lacs and one motor cycle. After some time the complainant came back to her matrimonial home but the behavior of the accused persons remained very cruel towards her. On 01.07.2009, the petitioner no.1 forcibly took the complainant to Jaipur and misbehaved with her. On 02.08.2009, also the complainant was again thrown out of her house for demand of dowry. The respondent no.2/complainant filed a complaint in CAW Cell, East District, Krishna Nagar, Delhi against the petitioners which resulted into the registration of the FIR in question. The respondent no.2 also filed a petition under Section 125 Cr.P.C. which was referred to Mediation Cell and the matter was settled there.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties has been amicable resolved. As per the mediation report, the parties have decided to take divorce by way of mutual consent within 7 days from the date of this report. It is also agreed that the petitioner no.1 shall pay an amount of Rs. 1.5 Lacs to the respondent no.2 as full and final settlement of all the claims of the complainant in respect of the maintenance, present, past and future, dowry articles, permanent alimony etc. It is also agreed that the out of the above said amount, the petitioner no.1 shall pay an amount of Rs.50,000/- to the respondent no.2 at the time of recording of the statement of the parties in the first motion of the divorce petition by mutual consent by cash/draft. It is also agreed that the second motion petition for divorce by mutual consent shall be filed in the first week of September, 2012 and at the time of recording of the statement of the parties, the petitioner no.1 shall pay a further sum of Rs. 50,000/- to the respondent no.2 by cash/draft. It is further agreed that within 15 days of passing of decree of divorce, petitioner no.1 and his family members shall file a petition for quashing of

FIR in question in this Court where respondent no.2 shall cooperate and at that time petitioner no.1 shall file pay respondent no.2 an amount of Rs. 50,000/- by cash/draft. It is also agreed that on passing of the decree of divorce, respondent no.2 shall withdraw the petition under Section 125 Cr.P.C. Respondent No.2 affirmed the contents of the aforesaid settlement. 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 recognized 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 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 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. MANU/SC/0842/2014 and in the case of Inder Singh Goswami v. State of Uttaranchal MANU/SC/0808/2009 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 tranquillity 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 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 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 emphasized 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.120/2010 dated 07.06.2010, under Sections 498A/406/34 IPC registered at Police Station Farsh Bazar and the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

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