

Kamran Ansari and Others Vs. State and Another

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Court : Delhi

Decided On : Mar-08-2016

Judge : P.S.Teji

Appeal No. : CRL.M.C.No. 5265 of 2015 & CrI.M.A. No. 18999 of 2015

Appellant : Kamran Ansari and Others

Respondent : State and Another

Judgement :

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioners, namely, Sh. Kamran Ansari, Smt. Chand Bibi, Sh. Rafi Ahmed, Smt. Malka Rafi, Sh. Mohd. Rashid, Smt. Nasreen, Sh. Mohd. Arshad and Smt. Rushda Tasneem for quashing of FIR No.597/2014 dated 30.07.2014, under Sections 498A/406/34 IPC registered at Police Station Jamia Nagar on the basis of the mediation report of the Delhi High Court Mediation and Conciliation Centre, Delhi High Court, New Delhi in view of the settlement arrived at between the petitioner no.1 and respondent No.2, namely, Smt. Sadia Naaz @ Sadiya Naaz on 19.11.2015.

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 05.01.2012 as per

Muslim rites and ceremonies. On the very next day, the mother-in-law and the sister-in-law of the complainant started taunting her for bringing insufficient dowry. The complainant was pressurized by her mother-in-law to do all house hold chores due to which the left foot of the complainant twisted but she was not allowed any rest. The accused persons also snatched away all the jewellery items of the complainant. The accused persons called the parents of the complainant to the house of her sister-in-law and demanded more articles from them. One day, when the complainant asked her husband to recharge her phone, she was beaten up by her husband and mother-in-law. The father of the complainant took her to hospital and doctor opined that there is severe infection in the left foot of the complainant or the last 6 weeks. Later on, the complainant got pregnant and suffered miscarriage due to continuous mental torture. On 08.06.2012, the husband along with his mother, sister and her three children left for Hyderabad without informing the complainant. Later on, the accused persons tried to change the religion of the complainant. On 31.10.2012, the complainant came to her parental home. The respondent no.2/complainant lodged the FIR in question against the petitioners. The respondent no.2 also filed a petition under Section 125 Cr.P.C. against the petitioner no.1 and other applications against the petitioners. Later on, both the parties compromised their matter with each other amicably.

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 petitioner no.1 has agreed to pay a sum of Rs.7,25,000/- to respondent no.2 towards full and final settlement of all the claims and demands towards dowry articles, maintenance (past, present and future), stridhan, permanent alimony of respondent no.2 against petitioner no.1. It is also agreed that out of the said amount Rs. 5 Lacs has already been paid by petitioner no.1 to respondent no.2 as per Court's order during the bail proceedings before the Registrar General, Delhi High Court and the same has been received by respondent no.2 and the respondent no.2 acknowledges the same. It is further agreed that petitioner no.1 has given Talaaq by pronouncing the word Talaaq Talaaq Talaaq on 19.11.2015 in the presence of the witnesses to this settlement agreement. The Haq Mehar of Rs.25,000/- stands already paid by the petitioner no.1 to respondent no.2 at the time of Nikaah and the same is acknowledged by the respondent no.2. It is also

agreed out of the balance amount of Rs.2.25 lacs, the petitioner no.1 shall pay an amount of Rs. 1 lacs to respondent no.2 on or before 23.11.2015 by way of cash or pay order. It is also agreed that the remaining balance of Rs. 1.25 Lacs shall be paid by the petitioner no.1 to the respondent no.2 at the time of getting the FIR in question quashed before this Court within a period of 45 days from the date of this mediation report. It is also agreed that respondent no.2 shall sign the quashing petition and shall give affidavit to that effect and fully cooperate in getting the FIR in question quashed against the petitioner no.1 and all his family members named in the FIR in question by giving statement before this Court. It is also all agreed that the cases filed by any of the party shall be withdrawn and that if any case/suit/complaint other than the above said FIR in question in any Court of law or in any police station, shall not be pursued by the parties and shall be withdrawn, if found otherwise, shall be considered, null and void. It is also agreed that both parties shall neither initiate or harm each other or their respective families in future in any manner whatsoever and that they have no claims whatsoever against each other arising out of their marriage and that all disputes have now been settled. Respondent No.2 affirmed the contents of the aforesaid settlement and of her affidavit dated 16.12.2015 supporting this petition. In the affidavit, the respondent no.2 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 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 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 noncompoundable. In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 498A IPC is a noncompoundable 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 overburdened 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.597/2014 dated 30.07.2014, under Sections 498A/406/34 IPC registered at Police Station Jamia Nagar and the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

16. Application Crl.M.A. No. 18999/2015 is also disposed of accordingly.