

S.B.Cr.Misc.Petition No.816/2010

Rajesh @ Rajendra & Ors.  
v.  
State of Rajasthan

Date of Order            ::        24<sup>th</sup> June, 2010

HON'BLE MR.JUSTICE GOVIND MATHUR,V.J.

Mr. CS Kotwani, for the petitioners.  
Mr. KR Bishnoi, Public Prosecutor.

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This misc. petition under section 482 Cr.P.C. is preferred to quash first information report No.94/2010 dated 9.3.2010 (Anx.1).

The factual matrix necessary to be noticed is that the petitioner No.1 got married to the petitioner No.4 on 9.5.1997, however, certain disputes arose between them and as such at the instance of the petitioner No.4 certain cases were lodged against the petitioners No.1, 2 and 3 including the case arising out of the first information report referred above. In the first information report in question allegations against the petitioners No.1, 2 and 3 are relating to commission of offences under Sections 498-A and 406 Indian Penal Code.

By a flux of time the petitioners No.1, 2 and 3 reached at an agreement with the petitioner No.4 to resolve their disputes at their own level. The petitioners No.1 and 4 are present before the Court and stated that they are not interested to pursue their disputes further. Petitioner No.4 Smt. Vandana Paliwal present in Court desired to get the first information report No.94/2010 dated 9.3.2010 pending investigation at police station Ramnagar District Rajsamand quashed in view of the compromise arrived at between the parties. It is pertinent to note that the provisions of Sections 498-A and 406 IPC being not compoundable cannot be set at an end at this stage. However, the compromise arrived at between the parties and the prime importance of matrimony demands setting aside of the cases pending before the parties including the first information report in question.

This Court in SBCr.Misc.Petition No.1116/2004, Shivram Sharma v. State of Rajasthan, decided on 22.11.2004, while relying upon the judgment of Hon'ble Supreme Court in B.S.Joshi v. State of Haryana & Anr., 2003(4) SCC 675, held as under:-

“Counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court delivered in the case of B.S.Joshi & Ors. v. State of Haryana & Anr., 2003 (42) Crimes 284 (SC), wherein Hon'ble Supreme Court held that the High Court while exercising its inherent

powers can quash criminal proceedings or FIR or complaint pertaining to an offence which is not compoundable. The relevant portion of the judgment delivered above is quoted as under:-

“13.The observations made by this Court, though in a slightly different context, in G.V.Rao v. L.H.V. Prasad & Ors. 2000(3) SCC 693, are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their cases in different courts.

14.There is no doubt that the object of introducing chapter XX-A containing section 498A in the Indian Penal Code was to prevent

the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from setting earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code."

In view of the fact that Smt. Munni Devi, who is present before the court has stated that she has entered into an agreement with the petitioner Shiv Ram Sharma and she is living with him from the last about 8 months, therefore, she does not want to pursue the criminal case lodged against the petitioner, I consider it appropriate to quash the FIR lodged against the petitioner as a consequence of which the proceedings in criminal case No.14/2002, State of Rajasthan v. Shiv Ram Sharma are pending before the court of Judicial Magistrate No.5, Jaipur District, Jaipur."

The facts of the instant case too are quite analogous and those demand quashing of the first information report No.94/2010 dated 9.3.2010.

In view of above, this misc. petition is allowed and the first information report No.94/2010 dated 9.3.2010 pending investigation at police station Ramnagar District Rajsamand is hereby quashed.

( GOVIND MATHUR ),V.J.

kkm/ps.