

HIGH COURT OF MADHYA PRADESH

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MCRC No.46884/19

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(Kaidar and another Vs. State of M.P. and Another)

Indore, Dated : 30.11.2019

Shri Anil Kumar Dawale, learned counsel for the petitioners.

Shri Kamal Kishroe Gupta, learned counsel for respondent No.2.

Shri Amol Shrivastava, learned counsel for the State.

The petitioner and respondent No.2 are also present in person.

Heard.

By this petition under Section 482 of the Cr.P.C., the petitioners have prayed for quashing of prosecution under Section 498A of the IPC.

The petitioner No.1 and the respondent No.2 were married in 2014 and thereafter the FIR was lodged by the respondent No.2 alleging commission of offence under Section 498A, 506/34 of IPC, on the basis of which the offence was registered against the petitioners. During the pendency of the proceedings a compromise was arrived at between the parties, therefore, the compounding application dated 30.9.2019 under Section 320(2) of the Cr.P.C. was filed. The trial Court by order dated 1.10.2019 had taken note of the compromise which was arrived at between the parties and had accordingly compounded the offence under Section 506 Part-II of the IPC but since the offence under Section 498A of the IPC was not compoundable, therefore, the present petition has been filed.



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Having heard the learned counsel for the parties and on perusal of the record, it is noticed that the Family Court has passed the decree of divorce on 15.11.2019 with the condition that the said decree will come into force after the pending petition before this Court for the offence under Section 498A is decided.

Counsel for both the parties, on instructions from the respective parties, have stated before this Court that the parties do not want to further involve in the pending litigation. Counsel for the respondent No.2, on instructions, has clearly stated that the respondent No.2 also does not want the prosecution of the petitioners for offence under Section 498A of the IPC.

The Supreme Court in the similar circumstances in the judgment in the matter of **B.S. Joshi and others Vs. State of Haryana and another reported in AIR 2003 SC 1386** while considering the issue of exercise of inherent jurisdiction under Section 482 of the Cr.P.C. in such cases, has held that:-

“10. In State of Karnataka v. L. Muniswamy & Ors. [(1977) 2 SCC 699], considering the scope of inherent power of quashing under [Section 482](#), this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient



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jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Answer clearly has to be in 'negative'. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.

11. In *Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors.* [(1988) 1 SCC 692], it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

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



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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 their 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 settling 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."

Having regard to the aforesaid pronouncement as also the circumstances of the present case, the M.Cr.C. is **allowed** and the prosecution of the petitioners for offence under Section 498-A of the IPC in Crime No.122/15 is hereby quashed.

C.C. as per rules.

(Prakash Shrivastava)
Judge

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