

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRMC No. 48/2008

Davinderjeet Singh and others

.... Petitioner/Appellant(s)

Through:- Mr. Vishal Mahajan, Advocate.

V/s

State of J&K and another

.....Respondent(s)

Through:- Ms. Shazia Asaf, Advocate vice
Mr. P.D. Singh, Dy. AG for R-1
Mr. Sachin Gupta, Advocate for R-2

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

ORDER

29.02.2024

01. Petitioners have invoked the inherent jurisdiction of this Court under Section 561-A Cr.P.C. for quashing the proceedings arising out of FIR No. 09/2005 under Section 498-A RPC registered with the Women Cell Police Station, Jammu.

02. The petitioner No. 1 and respondent No. 2 were married on 06.11.2002 according to Sikh rites and customs and had been living together since then. A female child named Ritika was born to the parties on 12.10.2003.

03. The Respondent No. 2 filed complaint before the Chief Judicial Magistrate (CJM), Jammu. Upon receipt of this complaint, the learned CJM, Jammu referred the matter to respondent No. 1 for investigation and a formal FIR was registered against the petitioners, i.e., FIR No. 09/2005. After the completion of the investigation, respondent No. 1 filed charge-sheet (Challan) under Section 498-A RPC before the Court of the 2nd

Additional Munsiff, Jammu. The Court of learned 2nd Additional Munsiff, Jammu, after hearing the counsel for the parties on the charge and after perusing the documents submitted by the Police, framed charges on 28.02.2008 against the petitioners for the offence punishable under Section 498-A RPC. This order, dated 28.02.2008, was assailed by the petitioners in the present petition.

04. During the pendency of proceedings of this petition, parties have decided to reach an amicably settlement and have entered into a Compromise with each other. They also have mutually decided to dissolve their marriage and a compromise deed between them is placed on record.

05. In terms of the said compromise, it is submitted that they have settled their differences amicably and respondent No. 2 has submitted that she has no grievance against the petitioners and, as such, does not wish to proceed against them. Both the parties are present in Court today, and they are duly identified by their respective counsels. The statement of respondent No. 2 has been recorded. In her statement, she has stated that she has amicably settled all the disputes and issues with the petitioners outside the Court and a Compromise Deed has also been executed by them in this regard. She further submitted that she has no objection, in case, the proceedings in FIR No.16/2020 under section 498-A IPC registered with Police Station Women Cell, Jammu are quashed.

06. The issue regarding quashing of proceedings arising out of matrimonial dispute on the ground of settlement/compromise is to be encouraged by this Court to put an end to all disputes as held in **B. S.**

Joshi & ors. vs. State of Haryana & anr., (2003) 4 SCC 675 and **Yashpal Chaudhrani & ors. State (Govt. of NCT Delhi) & anr. 2019 SCC Online Del 8179.**

07. In **Jitendra Raghuvanshi & ors. vs. Babita Raghuvanshi & anr., 2013 0 Supreme (SC) 247**, the Hon'ble Apex Court has held in Para 12 as under:

"12. In our view, it is the duty of the Courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings."

08. The Hon'ble Apex Court in **Narinder Singh & ors. versus State of Punjab & ors., (2014) 6 SCC 466**, vide which the guidelines were framed for accepting the settlement for quashing the proceedings or refusing to accept the settlement with direction to continue with criminal proceeding. Paragraph Nos. 29.3, 29.4 & 29.5 are reproduced below:-

29.03 Such a power is not 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 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, those criminal cases having overwhelmingly and pre-dominantly 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.

29.5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

09. In view of the law as laid down in the aforementioned judgments, it is apparent that this power is not to be exercised in prosecutions which involve heinous & serious offences of mental depravity like murder, rape, dacoity, etc. but can be exercised in matrimonial disputes, civil or commercial matters.

10. In the present case, the offence alleged against the petitioners does not fall within the offences of heinous nature of mental depravity, like murder, rape, dacoity, rather it is a case of offences relating to matrimonial dispute. Further, the parties have resolved and settled their disputes and no useful purpose would be served by continuation of prosecution. It is well settled that in case of offence relating to matrimonial dispute, if the Court is satisfied that the parties have genuinely settled the disputes amicably, then for securing the ends of justice, criminal proceedings can be quashed by exercising inherent powers of this Court.

11. Keeping in view the compromise entered between the parties, possibility of conviction is bleak and further continuation of criminal proceedings will cause grave injustice to the parties as the parties are no

longer interested in pursuing the same. It is, thus, better to put a quietus to the dispute in view of the settlement arrived at between the parties.

12. In view of the aforesaid position and in order to secure the ends of justice, this petition is allowed. FIR No. 09/2005 under section 498-A RPC and order dated 28.02.2008 are quashed.

13. **Disposed of** accordingly.

(Sindhu Sharma)
Judge

Jammu:

29.02.2024

Michal Sharma/PS

