

(2006) 01 P&H CK 0217

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No"s. 25037-M of 2005 and 1217-M of 2006

Yashpal Sharma

APPELLANT

Vs

State of Haryana and Another

 Anuradha Vats and

RESPONDENT

Another Vs State of Haryana

Date of Decision: Jan. 16, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 34, 498A

Hon'ble Judges: Nirmal Yadav, J

Bench: Single Bench

Advocate: Rajat Rathee, for the Appellant; Dinesh Arora, AAG, Haryana for the Respondent No. 1, for the Respondent

Final Decision: Allowed

Judgement

Nirmal Yadav, J.

By filing the abovementioned petitions petitioners- Yashpal Sharma, husband, Anuradha Vats, sister-in-law (Jethani) and Dharam Pal, brother-in-law (Jeth) of Usha, complainant (respondent No. 2) pray for quashing of FIR No. 149 of 2005 dated 20.4.2005 registered under Sections 498-A, 406, 323, 506 & 34 IPC at Police Station Udyog Vihar Gurgaon (Annexure P-1) together with all subsequent proceedings taken thereon on the basis of statements made by the complainant (Annexures P-2 & P-4 in Crl. M. No. 1217- M/2006) and hence both the petitions viz. Crl. Misc. No. 1217-M of 2006 and Crl. Misc. No. 25037-M of 2005 are being disposed of by this common order.

2. It is alleged in Crl. Misc. No. 1217-M of 2006 that complainant was married to petitioner-Yashpal according to Hindu rites and ceremonies on 13.11.2000. On 20.4.2005, respondent No. 2 lodged a complaint with SHO, Police Station Udyog Vihar Gurgaon against the petitioners making allegations of demanding money and maltreatment. The said complaint led to registration of aforesaid FIR. It is further

alleged that on 20.5.2005 during the course of hearing of anticipatory bail application of petitioner husband, respondent No. 2 made a statement (Annexure P-2) before Additional Sessions Judge, Gurgaon that allegations made in the FIR were false and she wanted to withdraw the case. The husband petitioner also preferred a divorce petition u/s 13 of the Hindu Marriage Act for dissolution of marriage by a decree of divorce. Subsequently, on the basis of compromise reached between the parties, petitioner withdrew the said petition vide order of the Additional Sessions Judge, Gurgaon dated 13.9.2005 (Annexure P-3). Respondent No. 2 complainant also made a statement (Annexure P-4) before the Additional Sessions Judge, Gurgaon that there was no dispute and tension in their matrimonial life and she would help in dropping the proceedings initiated vide FIR No. 149/05 under Sections 498A, 406/506/323/34 IPC, P.S. Udyog Vihar, Gurgaon.

3. In CrI Misc. No. 25037-M of 2005, sister-in-law (Jethani) and brother-in-law (Jeth) of the complainant have stated that they are living separately from the matrimonial house of the complainant and her husband and they have no connection or concern with their family affairs.

4. Admitting the factum of compromise having been effected between the parties, complainant has stated in her statement recorded in court today, separately, that over some petty domestic matter she got enraged with her husband and his family members and recorded the FIR in question. Later on, with the intervention of her relatives friends and well-wishers, she sorted out the differences and that she does not want to pursue the matrimonial dispute. While praying for quashing of FIR, the complainant has also stated that she has made the statement out of her free will and without any coercion or duress.

5. I have heard the learned counsel for the parties and perused the paper- book.

6. In support of their prayer to quash the First Information Report on the basis of compromise (Annexure P-2), learned counsel for the parties refer to a decision rendered by the Supreme Court in [B.S. Joshi and Others Vs. State of Haryana and Another](#), . In Para 14 of the said judgment, the Hon"ble Apex Court has observed as under :

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A 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.

7. On the basis of aforementioned undisputed facts of the instant case, there is no likelihood of the accused being convicted of the offences mentioned in the First Information Report when the case would be put on trial. The wife is not likely to support the imputation made against her husband/in-laws. The complaint-wife in her statement made in Court today has tendered apologies and has prayed that the FIR in question and all subsequent proceedings taken thereon be quashed to enable her to live happily in her matrimonial home. In such an eventuality, there would almost be no chance of conviction. In these circumstances, it would be in the interest of justice to quash the proceedings. In the cases where the parties have settled their matrimonial litigation and want to terminate the dispute amicably by mutual agreement instead of fighting it out in a court of law, the court must exercise its inherent powers to quash the proceedings as well as the First Information Report. In such cases, Section 320 of the Indian Penal Code does not limit or affect the powers of the High Court u/s 482 of the Code of Criminal Procedure.

8. Considering the facts and circumstances of the instant case in the light of the observations of the Hon'ble Apex Court in B.S. Joshi's case (supra), I am of the view that it would be a futile exercise and an abuse of the process of law to continue with the proceedings in respect of FIR No. 149 of 2005 dated 20.4.2005 registered under Sections 498-A, 406, 323, 506 and 34 IPC at Police Station Udyog Vihar, Gurgaon.

9. Consequently, the petitions are allowed and the aforesaid FIR No. 149 of 2005 dated 20.4.2005 as also the subsequent proceedings taken thereon are quashed.

Petition allowed.