

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

O R D E R

S.B. CR. MISC. PETITION NO.2994/2013

Sumnesh Shukla & Anr.

V/S

State of Rajasthan & Anr.

Date of Order : 15th April, 2014

PRESENT

HON'BLE MR. JUSTICE VIJAY BISHNOI

Mr. N.R. Goswami, for petitioners.
Mr. Rajesh Bhati, Public Prosecutor.
Dr. Shailendra Kala, for respondent No.2.

BY THE COURT:-

This Criminal Misc. Petition under Section 482 Cr.P.C. has been preferred by the petitioners with the prayer for quashing the proceeding pending against them in the court of Additional Metropolitan Magistrate No.5, Jodhpur Metropolitan in Criminal Case NO.2363/2008 (State of Rajasthan Vs. Sumnesh & Anr.) for offence punishable under Section 498-A IPC.

Brief facts of the case are that on a complaint lodged at the instance of respondent No.2, the Police Station, Mahila Thana, Jodhpur has registered an FIR No.165/1999 dated 23.09.1999 against the petitioners. After



investigation, the police filed challan against the petitioners for the offence punishable under Section 498-A and 406 IPC in the Court of Additional Metropolitan Magistrate No.5, Jodhpur Metropolitan, wherein the trial is pending against the petitioners for the aforesaid offences.



During the pendency of the trial, an application was preferred on behalf of the respondent No.2 while stating that both the parties have entered into compromise and, therefore, the proceedings pending against the petitioners may be terminated. The Additional Metropolitan Magistrate No.5, Jodhpur Metropolitan vide order dated 18.12.2013 allowed the parties to compound the offence under Sections 406 IPC, however, however, rejected the application so far it relates to compounding the offence under Section 498-A IPC.

The present Criminal Misc. Petition has been preferred by the petitioners for quashing the said proceedings against them.

The learned counsel for the petitioners has argued that as the respondent No.2 and the

petitioners have already entered into compromise and on the basis of it, the petitioners have already been acquitted for the offence punishable under Section 406 IPC, there is no possibility of conviction of the petitioners for the offence punishable under Section 498-A IPC.

It is also contended by learned counsel for the petitioners that the parties have decided to live separately by mutual consent and in this regard a divorce decree has already been granted by the Family Court, Mathura, Uttar Pradesh. It is also argued that no useful purpose would be served by continuing the trial against the petitioners for the offence punishable under Section 498-A IPC because the same may derail the compromise arrived at between the parties.

The learned counsel for the respondent No.2 has admitted that the parties have already entered into compromise and decided to live separately and the respondent No.2 does not want to press the charges levelled against the petitioners in relation to offence punishable under Section 498-A IPC.

The Hon'ble Apex Court while answering a



reference in the case of *Gian Singh Vs. State of Punjab & Anr.* reported in JT 2012(9) SC-426 has held as below:-



“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the



victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by



not quashing the criminal case despite full and complete settlement and compromise with the victim. 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 proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Having considered the facts and circumstances and looking to the fact that the petitioner No.1 and the respondent No.2 have decided to live separately and in pursuance of that appropriate proceedings are also complete before the Family Court, Jodhpur, there is no possibility of petitioners being convicted in the case pending against them. When once the matrimonial disputes have been settled by the mutual compromise, then no useful purpose would be served by keeping the criminal proceedings

pending.

Keeping in view the observations made by the Hon'ble Supreme Court in *Gian Singh's* case (supra), this Court is of the opinion that it is a fit case for exercising powers under Section 482 Cr.P.C. for quashing the criminal proceedings against the petitioners.

Accordingly, this Criminal Misc. Petition is allowed and the criminal proceedings pending against the petitioners before the Additional Metropolitan Magistrate No.5, Jodhpur Metropolitan in Criminal Case NO.2363/2008 (State of Rajasthan Vs. Sumnesh & Anr.) for offence punishable under Section 498-A IPC are hereby quashed.

[VIJAY BISHNOI], J.

