

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 302/2023
CrIM No. 1051/2023

Jamsheed Haroon and Another ...Appellant/Petitioner(s)

Through: Mr. Mansoor Ahmad Mir, Advocate

Vs.

UT of Ladakh through SHO Police Station ...Respondent(s)
Kargil Ladakh

Through: Mr. T. M. Shamsi, DSGI with
Ms. Yasmeen Jan, Advocate

CORAM:

HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE

ORDER

29.11.2023

1. Petitioners have invoked inherent jurisdiction of this Court under Section 482 Cr.PC for quashing FIR No. 22 of 2023 dated 11.05.2023, registered with Police Station Kargil, under Section 498-A of Indian Penal Code and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act 2019.
2. The marriage of petitioners 1 and 2 was solemnized on 14th June 2022. It appears thereafter the matrimonial relation between the petitioners did not remain cordial and the acrimony between them resulted in filing of various litigations before different courts. The petitioner no.2 filed a petition under Section 12 of the Domestic Violence Act before the Chief Judicial Magistrate, Kargil, and FIR bearing No. 22/2023 dated 11.05.2023, was also registered in Police Station Kargil, under Section 498-A of Indian Penal Code and Section 3/4 of Muslim Women (Protection of Right on Marriage) Act 2019.

3. It is submitted that during the pendency of proceedings, both the parties have amicably settled their dispute and entered into a compromise on 5th June 2023. They resumed their matrimonial life and are presently living as husband and wife at Khanharn Ganderbal. This compromise deed is placed on record. The petitioners on the basis of this compromise deed, by virtue of which they have settled their matrimonial dispute, have approached this Court for seeking quashing of FIR No. 22 of 2023 dated 11.05.2023, registered with Police Station, Kargil, under Section 498-A of Indian Penal Code and under Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act 2019, as Section 498-A, which is non-compoundable and Section 3/4 is compoundable only at the instance of the married women and with the permission of the parties.
4. Both the parties submit that they have now resumed their relations as husband and wife, therefore, the impugned FIR and proceedings pursuant to the same, if allowed, would not serve any purpose. The compromise deed is on record. The statement of petitioner no.1 was recorded in terms of order dated 26.07.2023, before the Registrar Judicial, in which he has deposed that he has settled all disputes, *inter se*, between them and seek disposal of this petition in this regard.
5. The powers of the Court to quash criminal proceedings on settlement between the parties have been considered by the Hon'ble Supreme Court in a number of judgments, and has been emphasized that the exercise of such powers would depend upon the facts and circumstances of each case.

6. In view of the settlement arrived at between the parties, this Court has to take a call as to whether impugned FIR can be quashed. Law in this regard is settled by the Supreme Court in ***Gian Singh v. State of Punjab and another (2012) 10 SCC 303***, and it has been observed as under:

“The position that emerges from the above discussion can be summarized 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

7. The legal position in ***Gian Singh*** (supra) has also been reiterated by the Supreme Court in ***Narinder Singh and others v. State of Punjab and another, (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 a direction to continue with criminal proceeding. Paragraph Nos. 29.03, 29.04 & 29.05 are reproduced as under:-

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.

29.04. 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.

29.05. 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.

8. The issue whether inherent power can be exercised in quashing criminal cases which arise out of matrimonial relationship was considered in the case of *Jitendra Raghuvanshi & ors. vs. Babita Raghuvanshi & anr., 2013 0 Supreme (SC) 247*. The Supreme 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.”

9. The offences alleged against the petitioner no.1 in the impugned FIR also do not fall within the offences of heinous nature and keeping in view the nature of the allegations and also considering the fact that the parties have already settled the matter and are living as husband and wife, merely because the offences alleged in the FIR are non-compoundable and in case are not quashed, the criminal proceedings, would amount to grave injustice to the parties and it would take away the effect of the compromise, which has been arrived at between the parties. The continuation of the criminal proceedings, as such, would be an abuse of process of law. In view of the fact that the parties have mutually settled the dispute and to discharge/ release the parties from this dilemma, there is no reason to keep the FIR pending between the parties.
10. In view of the aforesaid discussion as well as law laid down by the Hon'ble Supreme Court to secure the ends of justice, this petition is

allowed and the FIR No. 22 of 2023 dated 11.05.2023, registered with Police Station Kargil, under Section 498-A of Indian Penal Code and Section 3/4 of Muslim Women (Protection of Rights on Marriage) Act 2019, and proceedings initiated pursuant to the said FIR, are quashed.

11. This petition along with connected CM(s) is **disposed of** in the above terms.

(SINDHU SHARMA)
JUDGE

SRINAGAR

29.11.2023

Manzoor

