

Samay Saini And 2 Others vs State Of Up And 2 Others on 1 April, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

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Neutral Citation No. - 2025:AHC:44599-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 13189 of 2024

Petitioner :- Samay Saini And 2 Others

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Mohd. Afzal Ansari

Counsel for Respondent :- Ajay Kumar Pandey, G.A.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioners, learned counsel for the informant, Mr. G.P. Singh, learned A.G.A.-I for the State-respondents and perused the material brought on the record.

2. A Division Bench of this Court while entertaining the instant petition on 2.8.2024, has proceeded to accord interim relief in favour of the petitioners and referred the matter before the Mediation

Centre of this Court precisely taking into note to the facts that the dispute between the parties is a genuine matrimonial dispute. For ease of reference, the aforesaid order 2.8.2024 is reproduced hereunder:-

"1. Heard Sri Mohd. Afzal Ansari, learned counsel for the petitioners; learned A.G.A. for the State and Sri Ajay Kumar Pandey, learned counsel for the opposite party no.3.

2. This writ petition has been filed with the prayer to quash the First Information Report dated 21.06.2024, registered as Case Crime No.286 of 2024, under Sections-498-A, 323, 506 IPC & Section 3/4 Dowry Prohibition Act, Police Station-Dhoomanganj, District- Prayagraj.

3. It is stated that petitioners have been falsely implicated in the First Information Report and there is a genuine matrimonial issue in respect of which mediation ought to be tried first before proceeding with criminal investigation as it has the potential of disturbing the marital life for all times to come. Submission is that the matter be referred to Mediation Centre of this Court.

4. In the facts of the present case, we are of the view that an attempt be made to resolve the differences between the parties by way of mediation. It is, therefore, directed that petitioners shall deposit a sum of Rs. 10,000/- within two weeks from today with the Mediation Centre out of which Rs. 5,000/- shall be paid to the respondent no.4 for appearance before the Mediation Centre. The remaining amount shall go to mediation centre towards the expenses of mediation.

5. The matter is remitted to the Mediation Centre with the direction that same may be resolved after giving notices to both the parties.

6. It is directed that Mediation Centre shall make all endeavours to resolve the dispute amicably, expeditiously, preferably within a period of three months.

7. List after three months.

8. Till the next date of listing, no coercive action shall be taken against the petitioners pursuant to the aforesaid First Information Report."

3. In deference to the aforesaid order passed by the Division Bench of this Court on 2.8.2024, the parties have appeared before the Allahabad High Court Mediation and Conciliation Centre and eventually, the settlement/agreement took place between them on 17.10.2024. The relevant para 7 of the aforesaid Settlement/Agreement dated 17.10.2024 is reproduced hereunder:-

"7. In view of the Interim Settlement Agreement dated 17.10.2024, the following settlement has been arrived at between the Parties hereto:

a) That the parties entered into an interim settlement agreement dated 17.10.2024 and decided to live together as husband and wife forgetting all previous disputes and differences. In continuation of the aforesaid interim settlement, the parties appeared and stated that they are fully satisfied with this reunion and further they want to continue it for the rest of their lives.

b) That the husband and wife undertake that they shall not take any such action which may hurt either of the party mentally or physically and shall try to satisfy each other by their activities.

c) That the parties undertake not to commit any kind of cruelty against each other in any manner whatsoever.

d) That it has been agreed between the parties that they will behave properly living in peaceful and cordial atmosphere.

e) That the husband undertakes to take care of his wife and son and fulfill all essential requirements and amenities to them in future.

f) That the parents or family member of both the parties will not interfere in the married life of husband and wife.

g) That it has also been agreed between the parties that all the cases filed by them against each other or their family members regarding present matrimonial dispute shall be withdrawn by the parties concerned by taking appropriate steps before the Court/authority concerned.

h) That this Settlement Agreement has been read over and explained to the parties in Hindi in presence of their respective counsels and thereafter they have signed this Settlement Agreement.

i) That it has been agreed between the parties that they shall not violate the terms and conditions of this settlement otherwise the aggrieved party will be free to take legal recourse."

4. Learned counsel for the petitioners makes a statement that till date, no charge sheet has been submitted in the matter and in terms of the aforesaid agreement dated 17.10.2024, the parties have decided to live together as husband and wife forgetting their all previous dispute and differences and parties are fully satisfied with this reunion and further they want to continue it for the rest of their lives. Further, the husband and wife undertake that they shall not take any such action which may hurt either of the party mentally or physically and shall try to satisfy each other by their activities. Learned counsel for the petitioners in this backdrop underscores that under the aforesaid changed circumstances, the impugned First Information Report is liable to be quashed.

5. Learned counsel for the informant as well as learned A.G.A.-I for the State-respondents have given a nod to the said submissions advanced by learned counsel for the petitioners.

6. It is jointly submitted that this being an offshoot of a matrimonial dispute, same has come to be amicably resolved under the settlement/agreement dated 17.10.2024, duly verified by the parties and their counsels before the Mediation Centre, pending proceedings would serve no purpose and the same are liable to be quashed in the light of the judgements of the Apex Court in the case of B.S. Joshi v. State of Haryana and others, 2003(4) SCC 675, and Gian Singh v. State of Punjab, 2012(10) SCC 303.

7. The Apex Court in the case of B.S Joshi (Supra) has held that in case the matrimonial dispute has come to an end, under a compromise/settlement, between the parties, then notwithstanding anything contained under Section 320 IPC there is no legal impediment for this court to quash the proceedings of Section 498-A I.P.C etc, which has matrimonial flavour under its inherent powers in view of the recorded settlement between the parties. The Apex Court in the case of Gian Singh (supra) has held in para-61 that;

"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 favour 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."

8. The present dispute was between the husband and wife. Neither it is involving any moral turpitude nor is heinous in nature.

9. The writ petition is allowed and the proceedings of impugned First Information Report dated 21.06.2024 registered as Case Crime No.286 of 2024, under Sections 498-A, 323, 506 I.P.C. & Section 3/4 Dowry Prohibition Act, Police Station- Dhoomanganj, District- Prayagraj are hereby quashed.

Order Date :- 1.4.2025 Sachin (Prashant Kumar,J.) (Mahesh Chandra Tripathi,J.)