

JITENDRA RAGHUVANSHI & ORS.

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v.

BABITA RAGHUVANSHI & ANR.
(Criminal Appeal No. 447 of 2013)

MARCH 15, 2013

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[P. SATHASIVAM, JAGDISH SINGH KHEHAR AND
KURIAN JOSEPH, JJ.]

Code of Criminal Procedure, 1973 - ss.482 and 320 - Quashing of criminal proceedings in non-compoundable offences relating to matrimonial disputes - Ambit and scope of the inherent powers of the High Courts u/s.482 CrPC - Duty of the courts to encourage genuine settlements of matrimonial disputes - Held: High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice - s.320 CrPC does not limit or affect the powers of the High Court u/s.482 CrPC.

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Question relating to the ambit and scope of the inherent powers of the High Courts under Section 482 CrPC in quashing of the criminal proceedings in non-compoundable offences relating to matrimonial disputes arose for consideration in the present appeal.

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Allowing the appeal, the Court

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HELD: 1.1. 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, for the purpose of securing ends of justice, Section 320 CrPC would not be a bar to the exercise of

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A power of quashing of FIR, complaint or the subsequent criminal proceedings. [Para 12] [929-B-D]

B 1.2. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 CrPC should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. Also exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 CrPC enables the High Court and Article 142 of the Constitution enables this Court to pass such orders. [Para 13] [929-D-H; 930-A]

G 1.3. The High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 CrPC does not limit or affect the powers of the High Court under Section 482 CrPC. [Para 14] [930-B-C]

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2. In the instant case, it is not in dispute that after filing of a complaint in respect of the offences punishable under Sections 498A and 406 of IPC, the parties arrived at a mutual settlement and the complainant-wife also has sworn an affidavit supporting the stand of the appellants (husband and his relatives). That was the position before the trial Court as well as before the High Court in a petition filed under Section 482 CrPC. A perusal of the impugned order of the High Court shows that because the mutual settlement arrived at between the parties relate to non-compoundable offence, the court proceeded on a wrong premise that it cannot be compounded and dismissed the petition filed under Section 482 CrPC. A perusal of the petition before the High Court shows that the application filed by the appellants was not for compounding of non-compoundable offences but for the purpose of quashing the criminal proceedings. [Para 10] [928-D-G]

3. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In B.S. Joshi case, this Court has upheld the powers of the High Court under Section 482 CrPC to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. The said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at. The impugned judgment of the High Court is set aside and the proceedings in the Criminal Case pending on the file of Judicial Magistrate are quashed. [Paras 11, 14] [928-H; 929-A-B; 930-C]

B.S. Joshi and Others vs. State of Haryana and Another (2003) 4 SCC 675: 2003 (2) SCR 1104 - held applicable.

State of Haryana vs. Bhajan Lal 1992 Supp (1) SCC H

- A 335: 1990 (3) Suppl. SCR 259; *Madhu Limaye vs. State of Maharashtra* (1977) 4 SCC 551: 1978 (1) SCR 749; *Surendra Nath Mohanty & Anr. vs. State of Orissa* (1999) 5 SCC 238: 1999 (2) SCR 1005; *Pepsi Foods Ltd. & Anr. vs. Special Judicial Magistrate & Ors.* (1998) 5 SCC 749: 1997 (5) Suppl. SCR 12 - referred to.

Case Law Reference:

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| | 2003 (2) SCR 1104 | held applicable Paras 9, 11 |
| C | 1990 (3) Suppl. SCR 259 | referred to Para 9 |
| | 1978 (1) SCR 749 | referred to Para 9 |
| | 1999 (2) SCR 1005 | referred to Para 9 |
| D | 1997 (5) Suppl. SCR 12 | referred to Para 9 |

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 447 of 2013.

From the Judgment & Order dated 04.07.2012 of the High Court of Madhya Pradesh, Bench Indore in M. Cr. C. No. 2877 of 2012.

Preetika Dwivedi, Abhishek Chaudhary for the Appellants.

S.K. Dueby, B.P. Singh, Abhimanyu Singh, Sumit Gaur, Mohit K., Yogesh Tiwari, C.D. Singh, Rahul, Mukti Chaudhary for the Respondents.

The Judgment of the Court was delivered by

P. SATHASIVAM, J. 1. Leave granted.

- G 2. The important question that falls for determination in the instant appeal is about the ambit and scope of the inherent powers of the High Courts under Section 482 of the Code of Criminal Procedure, 1973 (in short "the Code") in quashing of the criminal proceedings in non-compoundable offences relating to matrimonial disputes.

3. This appeal is directed against the final judgment and order dated 04.07.2012 passed by the High Court of Madhya Pradesh, Bench at Indore in M.CR.C. No. 2877 of 2012, whereby the High Court dismissed the petition filed by the appellants herein under Section 482 of the Code for quashing of proceedings in Criminal Case No. 4166 of 2011 pending in the Court of Judicial Magistrate Class I, Indore. A B

4. Brief facts:

a) The marriage of Jitendra Raghuvanshi (Appellant No. 1 herein) and Babita Raghuvanshi, respondent-wife, was solemnized on 22.02.2002 as per Hindu rites and rituals. After the marriage, the parties were residing together as husband and wife at District Baitul, M.P. On 05.03.2003, an FIR being No. 172 of 2003 was registered at P.S. Sarni, Dist. Baitul for the offences punishable under Sections 498A, 406 read with Section 34 of the Indian Penal Code, 1860 (in short 'the IPC') at the instance of Babita Raghuvanshi - respondent-wife owing to the harassment and torture meted out to her in the matrimonial home by her husband and his relatives. A Criminal Case being No. 4166 of 2011 was also registered against the appellants herein for the offences punishable under Sections 498A and 406 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961. C D E

b) During the pendency of the criminal proceedings, in the year 2012, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement. Pursuant to the same, on 03.04.2012, a compromise/settlement application was filed for dropping of the criminal proceedings in Criminal Case No. 4166 of 2011 and FIR No. 172 of 2003 dated 05.03.2003 before the trial Court. Respondent-wife also filed an affidavit stating that she did not wish to pursue the criminal proceedings against the appellants. However, by order dated 03.04.2012, learned trial Judge rejected the said application. F G H

A c) Being aggrieved by the order dated 03.04.2012, on
 09.04.2012, the appellants herein filed an application being
 M.CR.C. No. 2877 of 2012 before the High Court invoking its
 inherent powers under Section 482 of the Code to quash the
 criminal proceedings launched against them. The High Court,
 B by impugned order dated 04.07.2012, dismissed the
 application filed by the appellants herein stating that the court
 has no power to quash the criminal proceedings in respect of
 offences under Sections 498A and 406 of IPC since both are
 non-compoundable.

C d) Aggrieved by the said order, the appellants have filed
 the present appeal by way of special leave.

5. Heard Ms. Preetika Dwivedi, learned counsel for the
 appellants and Mr. S.K. Dubey, learned senior counsel for
 D Respondent No. 2 and Mr. Rahul, learned counsel for
 Respondent No.1.

6. The scope and ambit of power under Section 482 of
 the Code has been examined by this Court in a catena of
 earlier decisions. In the present case, we are concerned about
 E interference by the High Court exercising jurisdiction under
 Section 482 in relation to matrimonial disputes.

7. It is not in dispute that matrimonial disputes have been
 on considerable increase in recent times resulting in filing of
 F complaints under Sections 498A and 406 of IPC not only
 against the husband but also against the relatives of the
 husband. The question is when such matters are resolved
 either by the wife agreeing to rejoin the matrimonial home or
 by mutual settlement of other pending disputes for which both
 G the sides approached the High Court and jointly prayed for
 quashing of the criminal proceedings or the FIR or complaint
 by the wife under Sections 498A and 406 of IPC, whether the
 prayer can be declined on the sole ground that since the
 offences are non-compoundable under Section 320 of the

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Code, it would be impermissible for the Court to quash the criminal proceedings or FIR or complaint. A

8. It is not in dispute that in the case on hand subsequent to the filing of the criminal complaint under Sections 498A and 406 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, with the help and intervention of family members, friends and well-wishers, the parties concerned have amicably settled their differences and executed a compromise/settlement. Pursuant thereto, the appellants filed the said compromise before the trial Court with a request to place the same on record and to drop the criminal proceedings against the appellants herein. It is also not in dispute that in addition to the mutual settlement arrived at by the parties, respondent-wife has also filed an affidavit stating that she did not wish to pursue the criminal proceedings against the appellants and fully supported the contents of the settlement deed. It is the grievance of the appellants that not only the trial Court rejected such prayer of the parties but also the High Court failed to exercise its jurisdiction under Section 482 of the Code only on the ground that the criminal proceedings relate to the offences punishable under Sections 498A and 406 of IPC which are non-compoundable in nature. B C D E

9. Learned counsel for the parties, by drawing our attention to the decision of this Court in *B.S. Joshi and Others vs. State of Haryana and Another*, (2003) 4 SCC 675, submitted that in an identical circumstance, this Court held that the High Court in exercise of its inherent powers under Section 482 can quash criminal proceedings in matrimonial disputes where the dispute is entirely private and the parties are willing to settle their disputes amicably. It is not in dispute that the facts in *B.S. Joshi* (supra) are identical and the nature of the offence and the question of law involved are almost similar to the one in hand. After considering the law laid down in *State of Haryana vs. Bhajan Lal*, 1992 Supp (1) SCC 335 and explaining the decisions rendered in *Madhu Limaye vs. State of* F G H

A *Maharashtra*, (1977) 4 SCC 551, *Surendra Nath Mohanty & Anr. vs. State of Orissa*, (1999) 5 SCC 238 and *Pepsi Foods Ltd. & Anr. vs. Special Judicial Magistrate & Ors.*, (1998) 5 SCC 749, this Court held:

B "8. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power."

Considering matrimonial matters, this Court also held:

D "12. The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes."

E 10. As stated earlier, it is not in dispute that after filing of a complaint in respect of the offences punishable under Sections 498A and 406 of IPC, the parties, in the instant case, arrived at a mutual settlement and the complainant also has sworn an affidavit supporting the stand of the appellants. That was the position before the trial Court as well as before the High Court in a petition filed under Section 482 of the Code. A perusal of the impugned order of the High Court shows that F because the mutual settlement arrived at between the parties relate to non-compoundable offence, the court proceeded on a wrong premise that it cannot be compounded and dismissed the petition filed under Section 482. A perusal of the petition before the High Court shows that the application filed by the G appellants was not for compounding of non-compoundable offences but for the purpose of quashing the criminal proceedings.

H 11. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In *B.S. Joshi* (supra),

this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

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.

13. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do

A real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.

B 14. In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under
C Section 482 of the Code. Under these circumstances, we set aside the impugned judgment of the High Court dated 04.07.2012 passed in M.C.R.C. No. 2877 of 2012 and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore.
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15. The appeal is allowed.

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Appeal allowed.