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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

MISC. CRIMINAL CASE No. 33634 of 2023

BETWEEN:-

1. PANKAJ MEHTA S/O LATE SHRI PANNALAL MEHTA, AGED ABOUT 66 YEARS, OCCUPATION: RETIRED INSURANCE SURVEYOR 137/1, VALLABH NAGAR, INDORE (MADHYA PRADESH)
2. NUTAN MEHTA W/O PANKAJ MEHTA, AGED ABOUT 60 YEARS, OCCUPATION: HOUSEWIFE 137/1, VALLABH NAGAR, INDORE (MADHYA PRADESH)
3. (INTERVENER) ROBIN S/O PANKAJ MEHTA, AGED ABOUT 35 YEARS, R/O 7 DAY BREAK WAY TRUGANIA, VICC 3029, AUSTRALIA, AT PRESENT VALLABH NAGAR, INDORE (MADHYA PRADESH)

.....APPLICANTS

(SHRI NEELESH AGRAWAL, LEARNED COUNSEL FOR THE PETITIONER
).

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION MAHILA THANA, INDORE (MADHYA PRADESH)
2. SMT. PURVI KIMTEE D/O RAJESH KIMTEE, AGED ABOUT 32 YEARS, CH 221 SCHEME NO. 74 VIJAY NAGAR INDORE (MADHYA PRADESH)

.....RESPONDENTS

(SHRI RAJESH JOSHI - GOVT. ADVOCATE FOR THE STATE.)
(COMPLAINANT -MS.. PURVI KIMTEE IS PRESENT IN PERSON.)

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Reserved On:13.10.2023

Delivered On:17.10.2023
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This application coming on for admission this day, the court passed the following:

ORDER

This petition under Section 482 of Cr.P.C. has been preferred by the applicants for quashment of FIR registered at Crime No. 124/2021 at Police Station Mahila Thana, Indore for offences under Sections 498-A, 323,34 of the Indian Penal Code (in short 'IPC') and Section 3/4 of Dowry Prohibition Act.

2.The facts of the case briefly stated are that the marriage of respondent No.2 Smt. Purvi Kimtee (henceforth "complainant) was solemnized with Robin Kimtee on 12.05.2018 as per Hindu rituals. It is alleged in the complaint that the father of the complainant gave Rs. 5 lacs and ornaments as dowry and spent Rs. 40 lacs in the marriage. It is also alleged that on the very next day of marriage, the husband and his family harassed her on petty issues. As per complaint, she told her husband to apply residential Visa of Australia for which her husband demanded money from her parents. Thereafter, she went Australia with her husband but since she was not possessing the residential Visa, she had to return India. Thereafter, she insisted her husband to apply residential Visa of Australia. After some time, her parents gave Rs. 10 lacs to the parents of her husband for arrangement to go Australia. She went Australia but due to lack of Visa, she had to return again India. Thereafter, her parents gave Rs. 25 lacs to the family of husband but they did not arrange her residential Visa of Australia and she is living in the house of her parents. Thereafter, the respondent No. 2 has lodged an FIR bearing Crime No. 124/2021 against the applicants. After completion of investigation charge sheet was filed against the accused/applicants before the Trial Court.

3.Petitioners have pleaded in the present petition before this Court filed under Section 482 of CrPC that since a divorce has already been granted by the Australian Courts, the applicants have been falsely made accused. It is further

alleged that the FIR has been filed only to wreck vengeance against the applicants and on that basis, proceedings initiated in respect of Crime No. 124/2021, registered at Police Station Mahilla Thana, Indore, under sections 498-A, 323,34 of IPC and Section 3 and 4 of Dowry Prohibition Act. On the basis of FIR, proceeding is pending before the Trial Court bearing No. RCT/7856/202. Since, the applicants are innocent and FIR has been lodged on the false substratum, the said FIR and the respective proceeding may be quashed.

4.Subsequently on the basis of amicable settlement arrived at between the applicant and complainant/respondent no.2, an application under section 320 of Cr.P.C. has been filed by both the parties and factum of compromise has been verified by Principal Registrar of this Court.

5.It is submitted by counsel for the applicant that considering the fact that parties have arrived at peaceful settlement and have also filed a compromise application, which has been duly verified by the Registrar of this Court. The continuance of proceeding before the Court below will amount to sheer wastage of valuable time of the Court and will also result in harassment of the parties.

6.It is not disputed by learned counsel for the respondent No.1/ State as well as by complainant that amicable settlement has been arrived at between the parties, pursuant to which compromise application has also been filed by the parties.

7.I have heard learned counsel for the parties and perused the record. Before dwelling upon the point, it is pertinent to mention here that after verification of compromise, the complainant Purvi Kimti has also appeared before the Court in person during the proceeding of the case and requested to culminate the whole proceedings of criminal case pending in the Trial Court on

the basis of compromise. It is also submitted by the counsel for both the parties that the applicants and the respondent have agreed that none of them would initiate any other legal action or complaint against each other or against the family members of each other with regard to this matrimonial alliance.

8.Learned counsel for the applicant has placed reliance upon a judgment delivered by the Apex Court in the case of **Gian Singh Vs. State of Punjab and Anr. reported in 2012 Cr.L.R. (SC) 883** . Paragraph no.49, 52, 53 and 57 of the aforesaid judgments are reads as under:-

"49. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, nothing in this Code which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither

permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

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 victims 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.

9. The attention of this Court has also been drawn by the parties towards the land mark judgment of the Hon'ble Apex Court in the case of ***B. S. Joshi v. State of Haryana, (2003) 1 DMC 524 (SC)***, wherein in paragraph 14 and 15 it has been held as under:

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Penal Code, 1860 was to prevent the torture to woman by her husband or by relatives of her husband. Section 498A was added with view to punishing 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 Penal Code, 1860.”

“15. In view of the above discussion, we hold that the High Court **in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect** the powers under Section 482 of the Code.”

10. In the light of the aforesaid proposition of law, this Court is of the considered view that the aim and object of law is not only to punish the offenders, but, also to maintain peace, tranquility and harmony in the respective society. If compromise between husband and wife is effectuated by the attempts of their family members, it will not only be good for society but also beneficial for their remaining life. The object of compromise is to settle down

in life and live peacefully. Need not to say that such type of compromise should be encouraged for maintaining matrimonial relations between the parties so that the parties may think over their defaults and settle their disputes amicably by mutual agreement instead of fighting in a Court of law where it takes years and years to conclude and in that process the parties lose their precious years in attending their cases in different Courts.

11. In the conspectus of the factual matrix of the case in hand, the complainant and members of the family of her husband have settled their disputes and have decided to live separately and, therefore, hyper-technical view regarding the compromise can be counter productive and against the interest of the woman and against the pious object for which the disputes between husband and wife have been settled, because in case the criminal proceedings are still permitted to continue then fresh series of dispute may start between the wife and the members of the family of her husband. In such case the settlement between the parties even in the case of Hindu Marriage Act may also be adversely effected. Therefore, in view of the judgment laid down by the Supreme Court in the case of *Gian Singh Vs. State of Punjab and Anr. (Supra)* and *B. S. Joshi v. State of Haryana (supra)*, the petition filed by the petitioners deserves to be allowed and is hereby allowed. As a result thereof, the proceedings of RCT/7856/2021, pending before the learned Trial Court are hereby quashed.

12. In view of the aforesaid, the petition stands disposed of.

(PREM NARAYAN SINGH)
JUDGE

