

(1)

HIGH COURT OF MADHYA PRADESH : JABALPUR

**

M.Cr.C. No. 53505/2020

(Smt. Neha Jain and others Vs. State of M.P. and another)

**

Jabalpur, Dated : 28.7.2021

Shri Abhishek Gulatee, counsel for the applicant.

Shri Punit Shroti, Panel Lawyer for the State.

Shri Sitendra Kumar Vishwakarma, counsel for respondent No. 2.

Shri Satyam Agrawal, counsel for the intervener.

Heard learned counsel for the parties.

The applicants have filed this petition invoking the extraordinary jurisdiction of this Court under Section 482 of the Cr.P.C. for quashing the FIR dated 30.8.2016 (Annexure P-3) registered against them in relation to Crime No. 106/2016 at Cyber Cell, Bhopal for the offences punishable under Sections 466, 468, 120B read with Section 34 of the IPC and Sections 65, 66, 66C, 66D of the Information Technology Act, 2008 on account of compromise entered into between applicant No. 1 Smt. Neha Jain and respondent No. 2 Hemant Jain (Annexure P-4).

The facts, in short, are that applicant No. 1 and respondent No. 2 got married as per Hindu rites and customs on 27.5.2014. After sometime, some disputes arose between them, as a result of which they both filed civil and criminal cases against each other. On 17.7.2015, applicant No. 1/wife lodged an FIR against respondent No. 2/husband and other family members for offences under Sections 498A, 294 and 506 of the IPC. She also filed a civil suit under Section 13 of the Hindu Marriage Act for dissolution of marriage against respondent No. 2 and an application under Section 125 of the Cr.P.C. seeking maintenance from respondent No. 2.

Respondent No. 2/husband preferred a complaint against unknown

(2)

persons on the ground that his income tax return has been hacked online illegally in violation of rights and privacy without authorization, on the basis of which after due investigation the FIR dated 30.8.2016 (Annexure P-3) was registered against the applicants vide Crime No. 106/2016 at Cyber Cell, Bhopal for the offences punishable under Sections 466, 468, 120B read with Section 34 of the IPC and Sections 65, 66, 66C, 66D of the Information Technology Act, 2008.

After sometime, the parties entered into a compromise (Annexure P-4) on 25.1.2020. According to the said compromise, respondent No. 2 agreed to take back the impugned FIR registered against the applicants. In pursuance to the said compromise, the parties moved an application (Annexure P-5) on 11.2.2020 under Section 13B of the Hindu Marriage Act for grant of mutual divorce, which is still pending in the Court of Additional District & Sessions Judge, Ganjbasauda, District Vidisha. Applications (M.Cr.C. Nos. 1069/2016 and 1153/2016) have also been filed before the Gwalior Bench of this Court under Section 320 read with Section 482 of the Cr.P.C. for quashing of the FIR registered against mother, sister-in-law & brother of respondent No. 2 and respondent No. 2 respectively under Sections 498-A, 506 of the IPC read with Section 3/4 of the dowry Prohibition Act.

Learned counsel for the applicants submits that both the parties have amicably settled all their disputes under no fraud, fear, influence, coercion or force or compulsion, therefore, the impugned FIR may kindly be quashed. It is further submitted that it is a matter between the husband and wife therefore, there is no occasion for the interveners to intervene in the matter. The husband and wife both have compromised the matter and now they have decided to live peacefully in future, therefore, the application for intervention may be dismissed. Learned counsel for the applicants has placed reliance on the judgments of the Supreme Court in the cases of **B.S. Joshi and others**

(3)

Vs. State of Haryana and another reported in **(2003) 4 SCC 675**; **Nikhil Merchant Vs. Central Bureau of Investigation and another** reported in **(2008) 9 SCC 677**; **Gian Singh Vs. State of Punjab and another** reported in **(2012) 10 SCC 303** and **Vijay Shankar Vs. State of M.P. and another** reported in **2019 SCC Online MP 5038**.

Learned counsel for respondent No. 2 has also supported the contentions raised by learned counsel for the applicants and submitted that the parties have amicably settled their disputes, therefore, the impugned FIR and its consequential proceedings may be quashed.

An application for intervention **I.A. No. 3635/2021** has been filed by Dr. Sumant Jain and Dr. Neha Jain, who are brother and sister-in-law of respondent No. 2 respectively seeking permission to intervene in the matter and to dismiss the present petition on the ground that offence committed by the applicants is grave in nature. Such crime is considered as offence against society as a whole not just against the direct victims of crime because the repercussions of any one crime carry through to the rest of society. He has placed reliance on the on the judgments of the Supreme Court in the cases of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another** reported in **(2017) 9 SCC 641**; **Ratanlal Vs. Prahlad Jat and others** reported in **(2017) 9 SCC 340**, **State of M.P. Vs. Laxmi Narayan and others** reported in **(2019) 5 SCC 688**. In view of the aforesaid, prayer is made to dismiss this petition.

I have heard learned counsel for the parties at length. This Court vide order dated 8.3.2021 directed the parties to appear before the Registrar (Judicial) on 18.3.2021 for verification of the compromise. In compliance of the order of this Court, applicant No.1 and respondent No. 2 appeared before Registrar (J-I) and Registrar (J-I) vide his report dated 18.3.2021 has recorded his satisfaction that respondent No. 2 did not appear to be under

(4)

any threat, inducement or pressure in entering into compromise. Applicant No. 1 and respondent No. 2 have amicably resolved the disputes between themselves and now their matter stands fully and finally settled.

So far as, FIR dated 30.8.2016 (Annexure P-3) registered against applicants in relation to Crime No. 106/2016 at Cyber Cell, Bhopal for the offences punishable under Sections 466, 468, 120B read with Section 34 of the IPC and Sections 65, 66, 66C, 66D of the Information Technology Act, 2008, is concerned, in the considered opinion of this Court, the aforesaid offence has been committed only against respondent No. 2 in order to obtain the information regarding his income tax in the matter relating to Section 125 of the Cr.P.C. which was filed by applicant No. 1 seeking maintenance from respondent No.2 , therefore, it is purely of personal nature and it cannot affect the society or State.

The Supreme Court in the case of **Nikhil Merchant Vs. Central Bureau of Investigation** (supra) has observed that “on an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi case and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise”.

In the case of **Gian Singh Vs. State of Punjab** (supra), it has been observed by the Supreme Court that “certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the

(5)

victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR, if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed”.

In the present case, respondent No. 2 and applicants have entered into a compromise and have amicably settled their disputes. Respondent No. 2 in his statement recorded before the Registrar (J-I) has stated that he has compromised the matter with the applicant and now he does not want any action to be taken against the applicants in respect of FIR dated 30.8.2016 (Annexure P-3) registered against them in relation to Crime No. 106/2016 at Cyber Cell, Bhopal for the offences punishable under Sections 466, 468, 120B read with Section 34 of the IPC and Sections 65, 66, 66C, 66D of the Information Technology Act, 2008.

The Gwalior Bench of this Court vide order dated 19.3.2021 passed in M.Cr.C. No. 1069/2016 quashed the charge-sheet and the proceedings of criminal case R.T. No. 1403/2015 under Sections 498-A, 294 and 506 of the IPC and Section 3/4 of the Dowry Prohibition Act, which was filed against the mother Smt. Shashikala Jain, sister-in-law Dr. Smt. Neha Jain and brother Dr. Sumant Jain of respondent No. 2 and vide order dated 19.3.2021 passed in M.Cr.C. No. 1153/2016 quashed the charge-sheet and the proceedings of criminal case R.T. No. 1403/2015 under Section 498-A, 294 and 506 of the IPC and Section 3/4 of the Dowry Prohibition Act, which was filed against respondent No. 2. The Gwalior Bench of this Court allowed both the aforesaid

(6)

petitions on the basis of the compromise entered into between the parties.

In view of the compromise entered into between the parties and in the light of the decisions of the Supreme Court decisions in the cases of **Nikhil Merchant Vs. Central Bureau of Investigation** (supra) and **Gian Singh Vs. State of Punjab** (supra), this petition is hereby allowed. The impugned FIR dated 30.8.2016 (Annexure P-3) registered against the applicants in relation to Crime No. 106/2016 at Cyber Cell, Bhopal for the offences punishable under Sections 466, 468, 120B read with Section 34 of the IPC and Sections 65, 66, 66C, 66D of the Information Technology Act, 2008 and its consequential proceedings is hereby quashed. As a consequence thereof, **I.A. No. 3635/2021** is hereby dismissed.

(Smt. Anjali Palo)
Judge

PB