(2022)01ILR A217
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: LUCKNOW 11.01.2022

BEFORE

THE HON'BLE RAJEEV SINGH, J.

Application U/S 482/378/407 No. 1979 of 2020

Ishwar Singhal @ Tinu & Ors. ...Applicants
Versus
State of U.P. & Ors. ...Opposite Parties

Counsel for the Applicants:
Durgesh Kumar Singh

Counsel for the Opposite Parties:
G.A., Vinod Kumar

(A) Criminal Law - The Code of Criminal Procedure, 1973 - Section 482 - Inherent power - Indian Penal Code, 1860 - Sections 323, 354, 498A & 504 , Dowry Prohibition Act, 1961 - Section 3/4 - after lodging the FIR, which discloses the commission of a cognizable offence, statutory powers of Police, under Section 156 Cr.P.C. to investigate the case registered on the basis of information - no interference is permissible in the investigation in the exercise of its inherent powers, under Section 482 Cr.P.C. - this Court has no jurisdiction to direct a police officer not to arrest the accused during the pendency of investigation of the case - but High Court can always issue a writ of mandamus, under Article 226 of the Constitution restraining the police officer for misusing his legal power in relation to arrest - Fir can be quashed under section 482 Cr.P.C .(Para - 9)

First Information lodged by opposite party No.4 - during the course of investigation - FIR and its consequential proceedings challenged before Court - matter referred to the Mediation and Conciliation Centre of Court - on the first date it was successfully concluded - opposite party No.4 enjoying her matrimonial life and residing with her husband and children .(Para - 18)

HELD:-Impugned FIR and its consequential proceedings is liable to be quashed in terms of settlement agreement of parties before Mediation and Conciliation Centre of this Court. First Information Report is hereby quashed. (Para - 18,19)

Application u/s 482 Cr.P.C. allowed. (E-7)

List of Cases cited:-

1. Ram Lal Yadav & ors. Vs The St. of U.P. & ors. , 1989 Cr. LJ 1013

2. Narinder Singh & ors. Vs St. of Punj. & anr. , (2014) 6 SCC 466

3. Jitendra Raghuvanshi & ors. Vs Babita Raghuwanshi & anr. , (2013) 4 SCC 58

4. Parbatbhai Aahir & ors. Vs St. of Guj. & anr. , (2017) 9 SCC 641 B.S.

5. Joshi & ors. Vs St. of Har. & anr. , (2003) 4 SCC 675

6. Gian Singh Vs St. of Punj. & anr. , (2012) 10 SCC 303

7. Ramawatar Vs St. of M.P. , 2021 SCC Online SC 966

8. St. of Har. & ors. Vs Bhajan Lal & ors. , (1992) Supp 1 SCC 335

(Delivered by Hon'ble Rajeev Singh, J.)

1. Heard Sri Durgesh Kumar Singh, learned counsel for the applicant, Shri Anirudh Singh, learned A.G.A. for the State and Shri Vinod Kumar, learned counsel for the opposite party No.4.

2. This application (u/s 482 Cr.P.C.) has been filed with request that the matter

may be referred to the Mediation and Conciliation Centre of this Court in relation to FIR No.501 of 2019, under Sections 323, 354, 498A, 504 I.P.C. and Section 3/4 of Dowry Prohibition Act, 1961, Police Station Mandion, District Lucknow and also quashed the entire proceeding in relation to FIR No.501 of 2019 (supra).

3. Learned A.G.A. raised preliminary objection that in the present case, First Information Report and its consequential proceedings are challenged as the investigation is still pending, therefore, application (u/s 482 Cr.P.C.) is not maintainable in terms of law laid down by Full Bench of this Court in the case of ***Ram Lal Yadav and Others vs. The State of U.P. and Others*** reported in ***1989 Cr. LJ 1013,*** decided on 01.02.1989 and answered that after lodging the FIR, no interference is permissible by this Court in exercise of its inherent powers, hence, no relief can be granted despite the issue is already resolved in the Mediation Centre.

4. Learned counsel for the applicants has submitted that marriage of applicant No.1 was solemnized with the opposite party No.4 on 01.07.2009 and they were enjoying their matrimonial life and out of their wedlock, two children were born, namely, Shourya and Tejal, but due to some trivial issues, FIR in question was lodged on 14.06.2019 by the opposite party No.4. In the present case, investigation was started and mediation was also initiated before the court below, but the applicant No.1 was not satisfied with the mediation proceeding initiated before the court below, hence, present application (u/s 482 Cr.P.C.) was filed and with the consent of learned counsel for the applicant as well as learned counsel for the opposite party No.4, matter was sent to the Mediation and Conciliation Centre of this Court on 31.07.2020. The order dated 31.07.2020 reads as under:-

"'Vakalatnama' filed by Shri Vinod Kumar, Advocate on behalf of opposite party No.4 is taken on record.

Heard learned counsel for the applicants as well as learned A.G.A. for the State and Shri Vinod Kumar, learned counsel for opposite party No.4.

The present 482 Cr.P.C. application has been filed to quash the entire proceedings arising out of F.I.R. dated 14.06.2019 lodged by the complainant (O.P. No.4) against the applicants in Case Crime No. 501 of 2019, under Sections 323, 354, 498-A, 504 of I.P.C. and 3/4 Dowry Prohibition Act, 1961, Police Staton Madiaon, District Lucknow and to refer this matter to the Mediation and Conciliation Center, High Court.

The instant dispute is the outcome of strained matrimonial relations between applicant No.1 and opposite party No.4. It has been submitted by learned counsel for the applicant that earlier the mediation process was started to amicably settle the dispute between applicant No.1 and opposite party No.4, however, due to some wrong advice given by the Advocate of the applicants they could not take part in the mediation process and, therefore, one more opportunity be provided to the parties to settle their disputes amicably, if possible, through the process of mediation.

Learned counsel for the opposite party No.4 is not having any objection to the request of learned counsel for the applicants.

Having regard to the submissions advanced by learned counsel for the applicants and learned counsel for opposite party No.4, the matter is referred to the Mediation Center of this Bench on deposit

of Rs. 15,000/-, which shall be deposited by the applicants within a week from today with the Senior Registrar of this Bench. When the Mediation Center will start functioning, a communication will be sent by the Mediation Center of this Bench to the parties and on the first appearance of opposite party No.4 before the Mediation Centre Rs. 13,000/- out of Rs. 15,000/-, which shall be deposited by the applicants shall be paid to her to meet out her expenses of travelling, etc.

Mediation Center will try its best to persuade the parties to arrive at a settlement and will submit a report to this Court within two months from the start of mediation.

List this case in the Ist week of November, 2020.

Till then no coercive measure shall be taken against the applicants in the aforementioned case."

5. Learned counsel for the applicants has submitted that mediation was successfully concluded and opposite party No.4 join her matrimonial home with her husband and children on 07.07.2021 and settlement agreement was singed at the Mediation and Conciliation Centre of this Court by the applicant No.1 (husband) and opposite party No.4 (wife) along with their respective counsels of the parties and they also agreed to withdraw the proceeding of Case, i.e. (i) Case Crime No.501 of 2019 (challenged in the present application) and (ii) Case No.990 of 2019, pending before the Principal Judge, Family Court, District-North West, Rohini Court, Delhi.

6. Learned counsel for the applicant as well as learned counsel for the opposite party No.4 fairly accepted that investigation is going on, but the Investigating Officer has not taken into consideration the settlement agreement for dropping the investigation, therefore, it is appropriate that First Information Report and its consequential proceedings may be quashed in terms of settlement agreement dated 22.02.2021, executed in the Mediation and Conciliation Centre of this Court.

7. Learned counsel for the applicants has relied on the decisions of Hon'ble Supreme Court in the Case of ***Narinder Singh and Others vs. State of Punjab and Another*** reported in ***(2014) 6 SCC 466***. The relevant part of the judgment reads as under:-

"29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should

refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

Jitendra Raghuvanshi And Others vs. Babita Raghuwanshi and another *reported in* ***(2013) 4 SCC 58.*** *The relevant part of the judgment reads as under:-*

8. It is not in dispute that matrimonial disputes have been on considerable increase in recent times resulting in filing of complaints under Sections 498-A and 406 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 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 498-A and 406 IPC, whether the prayer can be declined on the sole ground that since the offences are non-compoundable under Section 320 of the Code, it would be impermissible for the Court to quash the criminal proceedings or FIR or complaint.

9. It is not in dispute that in the case on hand subsequent to the filing of the criminal complaint under Sections 498-A and 406 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, the 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 498-A and 406 IPC which are non-compoundable in nature.

12. After considering the law laid down in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and explaining the decisions rendered in Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551 : 1978 SCC (Cri) 10] , Surendra Nath Mohanty v. State of Orissa [(1999) 5 SCC 238 : 1999 SCC (Cri) 998] and Pepsi Foods Ltd. v. Judicial Magistrate [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400] this Court held: (B.S. Joshi case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , SCC p. 680, para 8)

"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: (B.S. Joshi case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , SCC p. 682, para 12)

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

17. 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 Section 482 of the Code.

Parbatbhai Aahir and Others vs. State of Gujrat and Another reported in ***(2017) 9 SCC 641.*** *The relevant part of the judgment reads as under :-*

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal

cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

B.S. Joshi And Others vs. State of Haryana And Another *reported in* ***(2003) 4 SCC 675.*** *The relevant part of the judgment reads as under :-*

8. It is, thus, clear that Madhu Limaye case [(1977) 4 SCC 551 : 1978 SCC (Cri) 10] does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extraordinary power under Article 226 of the Constitution of India. 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:

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

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.

Gian Singh vs. State of Punjab and Another *reported in* ***(2012) 10 SCC 303.*** The relevant part of the judgment reads as under:-

"61. 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 predominatingly 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."

8. Learned counsel for the applicants has also relied on the recent judgment of Hon'ble Supreme Court in the case of ***Ramawatar vs. State of Madhya Pradesh*** reported in ***2021 SCC Online SC 966.*** The relevant part of the judgment reads as under:-

"19. Having considered the peculiar facts and circumstances of the present case in light of the afore-stated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:

Firstly, *the very purpose behind Section 3(1)(x) of the SC/ST is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre-existing civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the afore-stated civil/property dispute. Considering*

this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overarchingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

Secondly, *the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict their quartes only to certain areas, it is seen that in the present case, the Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed.*

Thirdly, *the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired.*

Fourthly, *the Complainant has, on her own free will, without any compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused.*

Fifthly, *given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded.*

Sixthly, *the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement."*

9. Learned counsel for the applicants has submitted that in the law laid down by the Full Bench of this Court in the case of ***Ram Lal Yadav*** (supra) relied by learned A.G.A. is wrongly interpreted as in the aforesaid judgment, it is held that after lodging the FIR, which discloses the commission of a cognizable offence, statutory powers of Police, under Section 156 Cr.P.C. to investigate the case registered on the basis of information, no interference is permissible in the investigation in the exercise of its inherent powers, under Section 482 Cr.P.C. and this Court has no jurisdiction to direct a police officer not to arrest the accused during the pendency of investigation of the case, but High Court can always issue a writ of mandamus, under Article 226 of the Constitution restraining the police officer for misusing his legal power in relation to arrest.

10. Learned counsel for the applicants has submitted that provisions of anticipatory bail, under Section 438 Cr.P.C. was omitted in the State of U.P., vide U.P. Act No.16 of 1976 w.e.f. 28.11.1975, the

protection of pre arrest was not available, therefore, application (u/s 482 Cr.P.C.) was being filed restraining the police from arrest during investigation and in the case of ***Ram Lal Yadav*** (supra), this controversy was decided that under Section 482 Cr.P.C., Police Officer cannot be restrained from arresting the accused persons during the course of investigation, but by way of writ of mandamus, this power can be used. This question is already settled in the case of ***State of Haryana and Others vs. Bhajan Lal and Others*** reported in ***(1992) Supp 1 SCC 335,*** that First Information Report can be quashed either under Section 482 Cr.P.C. or under Article 226 of the Constitution. The relevant part of the judgment reads as under:-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

11. Learned counsel for the applicants has submitted that in the case of

Ramawatar (supra), the Hon'ble Supreme Court has held that even at the stage of appeal against the conviction order, power of inherent jurisdiction can be invoked to do the complete justice, therefore, in the present case, First Information Report and its consequential proceedings may be quashed in terms of settlement agreement executed before the Mediation and Conciliation Centre of this Court.

12. Learned A.G.A. as well as learned counsel for the opposite party No.4 fairly conceded this fact that matter was sent to the Mediation and Conciliation Centre of this Court on 31.07.2020 and it was successfully concluded and presently, opposite party No.4 is residing with her husband (applicant No.1) and children.

13. Considering the arguments of learned counsel for the applicants, learned counsel for the opposite party No.4 as well as learned A.G.A. and going through the record, it is evident that FIR was lodged by the opposite party No.4 (wife of applicant No.1) due to some trivial issues and during the course of investigation, First Information Report and its consequential proceedings were challenged before this Court, and thereafter, matter was referred to the Mediation and Conciliation Centre of this Court with the consent of counsel for the opposite party No.4 on the first date and it was successfully concluded and settlement agreement was executed between the parties and opposite party No.4 join her matrimonial home on 07.03.2021 and enjoying her life with her husband (applicant No.1) and children.

14. As in the case of ***Ram Lal Yadav*** (supra) there is no bar from interference in the FIR in application (u/s 482 Cr.P.C.) as this question was already decided in the case of ***Bhajan Lal*** (supra) that inherent powers can be invoked in seven conditions, which reads as under:-

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious

redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

15. As in Criminal Procedure Code 1898, there was no such provision in relating to inherent jurisdiction of High Court, but the legislature added Section 561-A by inserting in 1923 Act No.XVII of 1923. Section 561-A of the Criminal Procedure Code 1898, which reads as under:-

"Saving of inherent power of High Court-Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as ma be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice"

16. The Law Commission in its 40th report observed that the statutory power under Section 561 A Cr.P.C. is extended only the inherent power of High Court. One may compare it with the recognition of the inherent powers of all civil courts by Section 151 Cr.P.C. Later on, Law Commission in its 41st reports recommended that inherent power of Section 561-A Cr.P.C. be extended to all Criminal Courts to prevent abuse of process of any Court or otherwise to secure the ends of justice, but the legislature did not accept the recommendation of commission to extend the inherent power as mentioned in Section 561-A of Criminal Procedure Code, 1898. Para 46.23 of 41st report of Law Commission is reproduced as under:-

"Section 561 A recognises the inherent powers of the Section 561 A, High Court to do real and substantial justice between parties. Assuming its existence, the Section provides that nothing in the Code shall be deemed to limit or affect the inherent power of the High Court to give effect to any order under the Code (whether made by itself or by a subordinate Court) or to prevent abuse of the process of any Court (including subordinate Courts) or otherwise to secure the ends of justice.

Fourteenth Report. Vol. II, page 829, the Law Commission observed:-

"This statutory recognition, however, extends only to the inherent powers of the High Court. One may compare it with the recognition of the inherent powers of all civil courts by Section 151, Criminal Procedure Code.

In a number of decisions before and after the enactment of Section 561A, various High Courts have also recognised the existence of such power in subordinate Courts. We would, therefore, recommend a statutory recognition of such inherent power which has been recognized as vesting in all subordinate criminal courts.

However, the general principle of law is that the inherent power of a court can be exercised only to give effect to orders made by it or to prevent abuse of its own processes.

We agree with this recommendation. We do not, however consider it necessary or desirable to go further and recognise and inherent power in Courts of Session and other Courts of Appeal to pass appropriate orders to prevent the abuse of the process of any subordinate Court.

We propose that the Section may be expanded as follows:-

"561 A. Nothing in this Code shall be deemed to limit or saving of

inherent powers of Criminal Courts, affect the inherent power-

(a) of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice, or (b) of any Criminal Court to make such orders as may be necessary to prevent abuse of its process or otherwise to secure the ends of justice."

17. In the case of ***Ram Lal Yadav*** (supra) the provision of anticipatory bail, under Section 438 Cr.P.C. was not existing, therefore, there was a delima to get the remedy of pre arrest during investigation, then it was clarified by this Court that High Court has no inherent powers, under Section 482 Cr.P.C. to interfere with the arrest of accused persons during the course of investigation, but it was clarified that High Court can always issue a writ of mandamus, under Article 226 of the Constitution restraining the police officer for misusing his legal power in relation to arrest and FIR can be quashed, under Section 482 Cr.P.C., which is covered under the principle laid down by Hon'ble Supreme Court in the Case of ***Bhajan Lal*** (supra) and the present case law laid down by the Hon'ble Supreme Court in the cases as discussed above.

18. In the present case, First Information Report No. 501 of 2019, under Sections 323, 354, 498A, 504 I.P.C. and Section 3/4 of Dowry Prohibition Act, 1961, Police Station Mandion, District Lucknow was lodged on 14.06.2019 by the opposite party No.4 and during the course of investigation, FIR and its consequential proceedings were challenged before this Court, and thereafter, matter was referred to the Mediation and Conciliation Centre of this Court with the consent of counsel for the opposite party No.4 on the first date and it was successfully concluded and presently opposite party No.4 is enjoying her matrimonial life and residing with her husband and children. As in the case of ***Ram Lal Yadav*** (supra), this Court held that Investigating Officer can not be restrained from arresting the accused of a cognizable offence. The Hon'ble Supreme Court in the case of ***Bhajan Lal*** (supra) and ***Ramawatar*** (supra) already held that FIR and its consequential proceedings can be quashed (u/s 482 Cr.P.C.), therefore, this Court is of the view that impugned FIR and its consequential proceedings is liable to be quashed in terms of settlement agreement of parties before Mediation and Conciliation Centre of this Court.

19. For the discussions made above, the present application (u/s 482 Cr.P.C.) is ***allowed*** and First Information Report No.501 of 2019, under Sections 323, 354, 498A, 504 I.P.C. and Section 3/4 of Dowry Prohibition Act, 1961, Police Station Mandion, District Lucknow, is hereby ***quashed.***

20. Office is directed to communicate this order to the Chief Judicial Magistrate, concerned, forthwith.

(2022)01ILR A228
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: LUCKNOW 17.12.2021

BEFORE

THE HON'BLE RAJESH SINGH CHAUHAN, J.

Application U/S 482/378/407 No. 3274 of 2018
connected with
Application U/S 482/378/407 No. 3015 of 2020
with
Application U/S 482/378/407 No. 2210 of 2018

Giri Raj Sharma ...Applicant
Versus
State of U.P. ...Opposite Party