

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No. 587/2023

Rajinder Kumar and othersAppellant(s)/Petitioner(s)

Through: Mr. J. A. Hamal, Advocate vice
Ms. Garima Gupta, Advocate.

vs

UT of J&K Respondent(s)

Through: Mr. P. D. Singh, Dy. AG.
Respondent No. 2, Ritu Aggarwal (Present in
person)

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER(ORAL)

08.07.2024

1. Through the medium of the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973 (now repealed and hereinafter to be referred as the 'Code' for short), the petitioners have sought the quashment of FIR No. 0050/2021 dated 13.03.2021 that came to be registered with Police Station, Nowabad, Jammu under Section 498-A IPC against the petitioners pursuant to the directions of the learned City Judge, Jammu *inter alia* passed by him on the petition filed under Section 12 of J&K Prevention of Women against the Domestic Violence Act, 2010 (hereinafter to be referred as the 'DV Act' for short) by the respondent No. 2 on the grounds *inter alia* that the same came to be registered pursuant to the directions of the court passed on a false and frivolous complaint filed by the respondent No. 2 under the

DV Act to express her vengeance and animosity on account of ongoing matrimonial dispute between her and the petitioner No. 5.

2. This Court on presentation of the instant petition stayed the proceedings in the impugned FIR vide order dated 17.07.2023, which order was extended from time to time and is in force till date.
3. Today, the respondent No. 2, Ritu Aggarwal D/o Hans Raj Aggarwal has appeared in person, whose identity has been ascertained after checking her Aadhar Card. She submits that she has compromised the matrimonial dispute with the petitioners and as such a divorce decree through mutual consent has been passed by the learned Family Court, Jammu. The respondent No. 2 who had filed the FIR in question against the petitioners is accompanied by her father-Mr. Hans Raj Aggarwal. Both of them submit that they have resolved all the issues with the petitioners, as such, they want that the present petition filed by the petitioner for quashment of the FIR may be allowed.
4. It is submitted by learned proxy counsel, Mr. J. A. Hamal appearing vice Mr. Garima Gupta, learned counsel for the petitioners, that Hon'ble Supreme Court has in case titled "**B. S. Joshi Vs. State of Haryana**" reported in **AIR (2003) SC 1386** allowed the quashment of FIR pursuant to the mutual compromise between the husband and the wife, leading to the dissolution of marriage.
5. In the facts and circumstances of the case, having regard to the mutual settlement of the long pending matrimonial dispute between the petitioner No. 5 and respondent No. 2, this Court is of the considered opinion that it will meet the ends of justice in case this Court quashes

the FIR in question by invoking its inherent powers vested under the provisions of Section 482 of the Code to *inter alia* pass any order for securing the ends of justice. The quashment of FIR in question is likely to set at rest long controversy between the contesting parties.

6. Although this Court is of the opinion that an FIR and the consequent charge-report culminating from the investigation cannot be generally and in a routine manner allowed to be quashed in exercise of the powers under Section 482 of the Code on the mere ground that the parties have settled their controversy that had become the cause of the occurrence, yet the provisions of Section 320 of the Code do not restrict the powers of this Court vested in it under Section 482 of the Code to quash the FIR and the consequent investigation process in exceptional circumstances for furthering the cause of justice especially in cases where the matrimonial disputes involving two families are amicably settled subsequent to registration of the FIR.
7. In case the FIR's and the criminal cases culminating from the investigations are allowed to be quashed at the wish of the complainants and/or accused, the criminal justice system is likely to become a causality and the society at large will have to bear the consequences.
8. The provisions of the Section 320 of the Code of 1973 corresponding to the Section 359 of the new Code i.e. Bharatiya Nagrik Suraksha Sanhita, 2023 ('BNSS' for Short) do not restrict but limit and circumvent the powers of this Court under Section 482 of the Code corresponding to Section 528 of the new Code (BNSS) regarding

quashment of FIR's and criminal proceedings, for the sake of the society at large, which is the real beneficiary of the criminal justice delivery system.

9. Both the repealed Code of 1973 and the new Code of 2023 as per the provisions respectively contained under Sections 320 (9) and 359 (9) provide that no offence shall be compounded except as provided under the said sections.
10. It has been held by the Hon'ble Apex Court in **Gopakumar B. Nair Vs. CBI** reported in (2014) 5 SCC 800 that, *“Though quashment of non-compoundable offence under Section 482 Cr. P.C. following settlement between parties would not amount to circumvention of Section 320, but such power has to be exercised with care and caution and would depend on facts of each case.”*
11. The Hon'ble Apex Court in the case referred to by the learned counsel for the petitioners has almost under similar situation allowed the quashment of FIR that was also registered on the complaint of wife, pursuant to the mutual settlement of the parties leading to dissolution of marriage.
12. It is profitable to reproduce the relevant paras of the authoritative judgment referred to by the learned counsel for the petitioners:

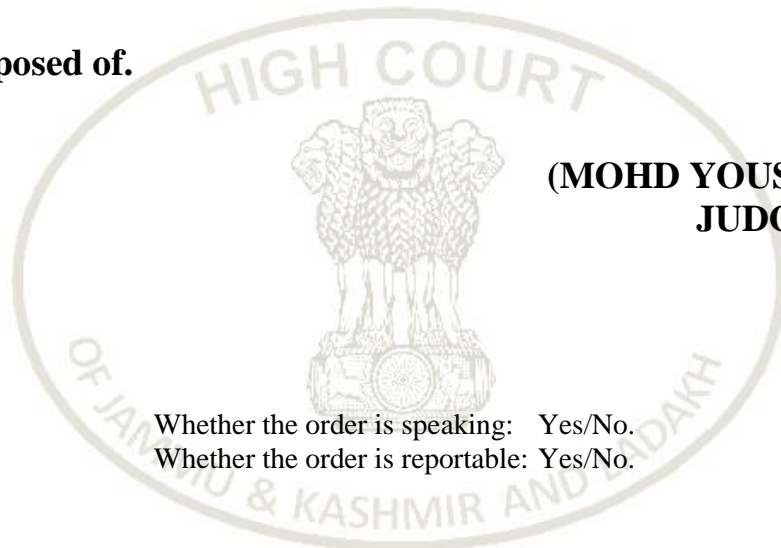
“There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counterproductive 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 XX-A of Indian Penal Code.

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.”

13. For the foregoing discussion, the instant petition is allowed at this stage, in the backdrop of its own facts and the impugned FIR along with the investigation proceedings conducted pursuant to the registration of the same by the respondent No. 1/Investigating Officer of the case is quashed.

14. **Disposed of.**



**(MOHD YOUSUF WANI)
JUDGE**

Jammu
08.07.2024
Sahil Padha

Whether the order is speaking: Yes/No.
Whether the order is reportable: Yes/No.