HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.4251/2022

1.

2.

----Petitioners

Versus

1. State Of Rajasthan through the PP.
2.

----Respondents

For Petitioner(s)	:	Mr. Neeraj K. Tiwari
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP Mr. Gaurav Gupta, Asstt. GA Mr. Sapan Soni

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JUSTICE ANOOP KUMAR DHAND

Order

21/05/2026

1. By way of filing the instant criminal misc. petition, a prayer has been made to quash the proceedings of Criminal Case No.794/2017 pending against the petitioners before the Court of Additional Chief Judicial Magistrate, Niwai, District Tonk arising out of FIR No.327/2013 registered at Police Station Niwai District Tonk for the offences punishable under Sections 302, 323, 341, 354, 506, 114, 406, 498-A and 120B IPC.

2. Learned counsel for the petitioners submits that the petitioners are parents-in-law of the respondent-complainant

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(hereinafter referred to as the "complainant"). He submits that the marriage of the petitioners' son was solemised with the respondent-complainant on 27.11.2009, but their marriage could not pull on well and a matrimonial dispute arose between the petitioners' son and the complainant and she lodged the impugned FIR against the entire family members of the petitioners. Learned counsel submits that after investigation, charge-sheet was submitted against the petitioners along-with their son

before the Court of the Additional Chief Judicial Magistrate, Niwai, District Tonk where charges were framed against all of them for the offence punishable under Sections 498A and 406 IPC and under Section 4 of the Dowry Prohibition Act vide order dated 29.08.2018. Learned counsel submits that since then the complainant is not appearing in the witness box for recording of her statements nor her family members were appearing before the Trial Court. Learned counsel submits that of the petitioners submitted an application under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as "the Act of 1955") against the complainant for dissolution of their marriage. He submits that the said application was allowed by the Family Court No.3, Jaipur and their marriage was dissolved vide judgment and decree dated 18.10.2019.

3. Learned counsel for the petitioner further submits that the aforesaid judgment, passed by the Family Court, was assailed by the complainant before this Court by way of filing D.B. Civil Misc. Appeal No.5735/2019, wherein a compromise took place between the parties and the complainant was awarded maintenance to the lumpsum amount of Rs.20,00,000/- (Twenty lacs) as permanent

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alimony to be paid by the petitioners' son. Learned counsel submits that thereafter son of the petitioners paid the aforesaid amount i.e. permanent alimony of Rs.20,00,000/- (Twenty lacs) to the complainant by way of demand draft and the appeal submitted by the complainant was dismissed by the Division Bench of this Court vide order dated 12.12.2024 and thereafter a decree of divorce has also been prepared by this Court on 17.02.2025. Learned counsel submits that inspite of receiving the permanent alimony of Rs.20,00,000/- (Twenty lacs), the complainant is not appearing before the Trial Court, only with a view to harass the husband and the petitioners. Learned counsel submits that the proceedings for the above stated offences are lying pending against the petitioners since 2013 and more than 13 years have passed thereafter. Learned counsel submits that under the changed circumstances, after receipt of the lumpsum amount of Rs.20,00,000/- (Twenty lacs) as permanent alimony, continuation of the proceedings against the petitioners tantamounts to abuse of process of law, hence, in order to secure the ends of justice, the proceedings pending against the petitioners be quashed.

4. In support of his submissions, learned counsel has placed reliance upon the judgment passed by the co-ordinate Bench of this Court in the case of **Mukesh Jangid Vs. The State of Rajasthan** reported in **2017 (1) WLC (Raj.) 500** and the judgment rendered by the Hon'ble Apex Court in the case of **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.** reported in **(2010) 7 SCC 667**. Learned counsel submits that under the changed circumstances and looking to the fact that the matrimonial dispute has already been settled between the

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complainant and her husband, the proceedings pending against the petitioners be quashed.

5. *Per contra*, learned Public Prosecutor opposed the prayer made by learned counsel for the petitioners, but he is not in a position to controvert the submissions made by learned counsel for the petitioners.

6. The respondent No.2 has not put her appearance inspite of the service of notice upon her on two occasions.

7. Heard and considered the submissions made at Bar and perused the material available on record.

8. This fact is not in dispute that marriage of the son of the petitioners was solemnised with the complainant on 27.11.2009, but since their marriage could not pull on well, the complainant started residing separately. This fact is also not in dispute that the complainant registered the impugned FIR not only against her husband, but also against the petitioners, who are her parents in laws. This fact is also not in dispute that all of the above named three persons were charge-sheeted before the Court of Additional Chief Judicial Magistrate, Niwai District Tonk for the offences punishable under Sections 498A and 406 IPC and under Section 4 of the Dowry Prohibition Act. This fact is also not in dispute that charges have also been framed against them for the above stated offences by the Court below vide order dated 29.08.2018 and this fact is also not in dispute that till date, the statements of the complainant have not been recorded, in spite of issuance of several notice/summons for the aforesaid purpose.

9. This fact is also not in dispute that during pendency of the aforesaid trial, husband of the complainant i.e. son of the

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petitioners submitted a divorce petition on 19.12.2013 under Section 13 of the Act of 1955 for dissolution of marriage. The said application submitted by the husband was allowed vide judgment and decree dated 18.10.2019 and a decree of divorce was passed dissolving the marriage of the parties.

10. Feeling aggrieved and dissatisfied by the aforesaid judgment and decree dated 18.10.2019 passed by the Family Court No.3, Jaipur, the complainant approached this Court by way of filing D.B. Civil Misc. Appeal No.5735/2019 and the same was decided by the Division Bench of this Court vide order dated 12.12.2024 while passing the following order:-

> "This appeal has been filed by the appellant-wife against the respondent-husband against judgment and decree dated 18.10.2019 whereby learned Family Court No.3, Jaipur allowed the application filed on behalf of the respondent-husband under Section 13 of the Hindu Marriage Act and granted the decree of divorce.
>
> Today both the husband and wife are present in the Court.
>
> Counsel for the appellant-wife submits that permanent alimony to the tune of Rs.20,00,000/- be granted in favour of the appellant-wife. She further submits that at present the wife is getting maintenance of Rs.15,000/- per month.
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> Counsel for the respondent-husband has not opposed the proposal made by counsel for the appellant-wife.
>
> In that view of the agreement between the parties, the appeal filed on behalf of the appellant-wife is dismissed. The respondent-husband is directed to deposit an amount of Rs.20,00,000/- (twenty lacs) by way of demand draft as permanent alimony in the name of appellant-wife for maintaining the wife and her daughter before the Registrar (Judicial) of this Court within two months. On depositing the said demand draft, the appellant-wife is entitled to receive the same. Thereafter, decree of divorce be prepared accordingly.

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Liberty to revive the appeal in case the husband fails to deposit the amount of permanent alimony within two months."

11. Perusal of the aforesaid judgment indicates that on the basis of the consent given by the complainant, a lumpsum amount of Rs.20,00,000/- (Twenty Lacs) was paid to her as permanent alimony and the judgment and decree passed by the Family Court with regard to dissolution of their marriage was upheld and thereafter the decree of divorce was prepared by the Registrar (Judicial) on 17.02.2025. This Court has also perused the order sheets of the Trial Court, which indicate that since 2018 neither the complainant nor the other witnesses are appearing in the witness box for recording of their evidence and in the meantime, more than eight years have passed.

12. It appears that inspite of dissolution of the marriage between the parties on the basis of consent given by the complainant before the Division Bench of this Court and inspite of receiving permanent alimony of Rs.20,00,000/- (Twenty Lacs) by her, the whole and sole objective of the complainant is to harass the petitioners.

13. The instant matter clearly indicates a reverse trend where the wife despite having compromised the dispute with her husband and on that basis obtained decree of divorce by mutual consent, yet want the prosecution against the husband and his family members to continue so that they are compelled to go through the ordeal of attending the protracted proceedings in the criminal cases, and suffer ignominy of facing the whole process of trial till the same attain finality, keep visiting their Advocates,

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incurring expenses and face the hardships and mental agony. Admittedly, the husband has discharged his part of the obligation as agreed in the terms of compromise. The respondent-wife having received the decree of divorce from the husband without contest on the basis of the terms of the compromise, cannot now be allowed to go back upon their proclaimed stand and take a somersault. The stand taken by the complainant that criminal proceedings are independent of divorce proceedings, in the facts of the case, cannot be accepted. The conduct of the respondent-wife clearly indicates that the criminal proceedings filed by them were only intended to harass the accused-petitioners. In view of the subsequent events and the conduct of the respondent-wife, allowing the criminal proceedings of the petitioners to go on, would indeed be an abuse of process of the court.

14. This is very unfortunate that the respondent-wife is now backing out from her undertaking. She is estopped in law from withdrawing her undertaking and representation. This would amount to misleading the court. From the agreements entered into between the parties and which are confirmed by her in Court, no doubt is left that this was a compromise/settlement for divorce by consent decree as well as for quashing the criminal proceedings. By denying to honour that agreement, she is certainly misusing the process of the Court. The Court would not allow a party to misuse its process. In the exercise of this wholesome power, this court can quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court. If it is satisfied that the ends

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of justice require that the proceedings ought to be quashed, it can do so, despite objection by respondent-wives. The court proceedings ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify this court in quashing the proceeding in the interest of justice. Though justice has got to be administered according to laws made by the legislature but the ends of justice are higher than the ends of mere law.

15. The Hon'ble Apex Court in the case of Preeti Gupta (supra), discussing at great length the scope and ambit of the powers of the High Court under Section 482 of the Cr.P.C. and prevailing trend in the society, observed that rapid increase in the number of genuine cases of dowry harassment is a matter of serious concern but also observed that it is a matter of experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. The courts have come across a large number of such complaints which are not even bona fide and are filed with oblique motive. It was observed that the learned members of the Bar have an enormous social responsibility and obligation to ensure that the social fiber of the family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. Learned members of the Bar, who belong to a noble profession, must

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maintain its noble traditions and should treat every such complaint as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of the that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. It was further observed that at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to not only the complainant but also to accused and his close relations. The Hon'ble Apex Court observed that it is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. The relevant discussion made by the Hon'ble Apex Court in para 35 and 36 of the report, is reproduced as under:-

> "35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth isa herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.
> 36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a

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matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful."

16. The co-ordinate Bench of this Court in the case of **Mukesh Jangid (supra)** has dealt with an identical situation, wherein also the husband and wife got the decree of divorce on the basis of the compromise and the wife had received a lumpsum amount as permanent alimony in the form of maintenance, yet she was pursuing the criminal case against her husband and in laws.

17. Considering the overall facts and circumstances of the case, the co-ordinate Bench of this Court was of the view that under such circumstances, continuation of the proceedings against the husband and in-laws tantamounts to abuse of process of law and accordingly, entire proceedings against the accused persons therein were quashed and set-aside.

18. In the instant case also, situation is quite similar and identical wherein the complainant has received a lumpsum amount of Rs.20,00,000/- (Twenty Lacs) as permanent alimony and on the basis of the consent given by her before the Division Bench of this Court, the order of mutual divorce has been passed by the Division Bench of this Court on 12.12.2024 and thereafter, a decree has also been prepared by the Registrar (Judicial) of this Court on 17.02.2025. Therefore, continuation of the proceedings against the petitioners tantamounts to abuse of process of law. Hence, in order to secure the ends of justice, the entire

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proceedings arising out of the aforesaid criminal case pending against the petitioners stand quashed and set-aside.

19. Accordingly, the instant criminal misc. petition stands allowed. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J

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