

THE HIGH COURT OF SIKKIM : GANGTOK
(Criminal Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

CrI. M.C. No. 03 of 2022

1. Shri. Bijay Kumar Agarwal,
S/o Late Jagdish Prasad Agarwal,
Aged about 42 years,
R/o Housing Colony,
Jorethang, South Sikkim.

2. Smt. Bhagyashree Agarwal,
Wife of Shri Bijay Kumar Agarwal,
Aged about 31 years,
R/o Housing Colony,
Jorethang, South Sikkim.

..... Petitioners

Versus

State of Sikkim,

.....Respondent

**Application under Section 482 of the Code of Criminal
Procedure, 1973.**

*(for quashing of the FIR bearing No.16/2020, dated: 26/04/2020
and proceedings in G.R. Case No.15 of 2020 titled **State of Sikkim
vs. Shri Bijay Kumar Agarwal** pending before the Court of the
Learned Judicial Magistrate, Jorethang Sub-Division, South Sikkim at
Jorethang).*

Appearance:

Mr. Sudhir Prasad, Advocate for the Petitioners.

Mr. S. K. Chettri, Additional Public Prosecutor for the
Respondent.

Date of hearing : 28.09.2022

J U D G M E N T (O R A L)

Bhaskar Raj Pradhan, J.

1. The husband and wife as petitioners before this court has moved the application under section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking a prayer to quash the criminal proceedings pending before the learned

Judicial Magistrate, First Class, Jorethang, South Sikkim. The proceeding is at the stage of trial and two police witnesses are yet to be examined. The learned Judicial Magistrate had framed three charges against the husband under section 498A/323 and 506 of the Indian Penal Code, 1860 (IPC).

2. Section 498A IPC relates to the husband subjecting the wife to cruelty. The punishment prescribed is imprisonment for a term which may extend to three years and with fine. The explanation to 498A defines cruelty to mean any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or harassment of the woman where such harassment is with a view of coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. The offence is non-bailable and non-compoundable.

3. Section 323 IPC is punishment for voluntarily causing hurt. The punishment prescribed is imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or

with both. The offence is bailable and compoundable by the person to whom the hurt is caused.

4. Section 506 IPC is punishment prescribed for criminal intimidation. The punishment is imprisonment of either description for a term which may extend to two years, or with fine, or with both. The offence, if it is not relating to a threat to cause death or grievous hurt, is punishable with imprisonment of two years or fine or both. The offence is compoundable by the person intimidated.

5. The deposition of the wife has been recorded by the learned Judicial Magistrate. According to the deposition on 26.04.2020 due to some oral exchanges between the husband regarding purchase of vegetables the husband got agitated and abused the wife and slapped her once or twice. It was also followed by a punch on her face above the left eye.

6. In cross-examination she admitted that the husband was the only earning member of their family; that he is a good person and takes good care of his family including their minor child; he has a good moral behaviour among his committee members; the husband has suffered a huge financial loss in his business and was often depressed; due to his financial breakdown he had become frustrated and preferred to be alone and was easily irritated; on the

relevant day she had replied to the husband harshly and it might have provoked it; that although she had deposed that the husband had punched her and had verbally abused her by saying certain specific words she had not stated so to the police when her statement under section 161 Cr.P.C. was recorded.

7. On 05.04.2022 the husband and wife entered upon a compromise deed in which the husband has agreed not to repeat such acts or bear any enmity against the wife in the future. The compromise deed records that the husband and wife desire and intends to settle the matter by way of compromise.

8. Both the husband and wife have been present before this court personally as and when they were directed to be present. They have been interviewed extensively. The wife states that she has forgiven the husband for his misdeeds that she complained of. She also states that since he is the only earning member of their family and they have a small child, this court should allow the compromise in the interest of the family. The husband on the other hand is apologetic for his actions and assures this court not to repeat his mistakes in the future. He assures this court further that he shall take care of his wife and his child and

not give any opportunity to the wife to complain in the future.

9. Quite apparently it is a dispute pertaining to a husband and wife and if they desire to bury their differences and live happily after the court should not be an impediment. Considering the nature of allegation made by the wife in her deposition this court is of the view that it would be in the best interest of both the husband and wife as well as the minor child to accept this compromise deed and quash the criminal proceedings pending against the husband on the assurances given by him to this court. Should the husband commit any offence hereafter the law must take its own course and the police shall proceed as per law against him.

10. Police Station FIR bearing No.16 of 2020 dated 26.04.2020 and G.R. Case No.15 of 2020 titled **State of Sikkim vs. Shri Bijay Kumar Agarwal** pending before the Court of the learned Judicial Magistrate, Jorethang, Sub-Division, South Sikkim stands quashed. The parties to bear their own costs.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**

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