



2026:AHC:74971

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 31194 of 2023

Puneet Kishore And Another

.....Applicant(s)

Versus

State Of U.P. And Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Prakash Chandra Srivastava,
Vishnu Prakash

Counsel for Opposite Party(s) : G.A.

Court No. - 75

HON'BLE SAMIT GOPAL, J.

1. List revised.
2. Heard Sri Prakash Chandra Srivastava, learned counsel for the applicants, Sri V.D. Ojha, learned counsel for the State and perused the record.
3. The prayers made in the present application under Section 482 Cr.P.C. filed by the applicants Puneet Kishore and Saroj Gupta, are as under:-

"It is, therefore, most respectfully prayed that this Hon'ble court be pleased to pass an order giving effect to an order dated 03.08.2021 passed under Section 406 Cr.P.C. by Hon'ble Supreme Court in transfer application no.260 of 2000 filed by OP No. 2 which was disposed of on the basis of compromise dated 03.08.2001 by Hon'ble Supreme Court on 03.08.2001 and OP No.2 be directed accordingly to do the needful or to pass any other or further order as this Hon'ble Court deems fit and proper.

It is further prayed that the Hon'ble Court be pleased to pass an interim order staying the further proceedings of Case No. 417 of 2021, State vs. Puneet Kishore and others, under Section 498A I.P.C. and 3/4 Dowry Prohibition Act, Police Station

Sadar Bazar, District Saharanpur, pending in the court of Civil Judge (Junior Division), F.T.C. (Offence Against Women), District Saharanpur, till further order of this Court or to pass any other or further order as this Hon'ble Court deems fit and proper."

4. A co-ordinate Bench of this Court passed the following order on 03.10.2023:-

"Heard Sri P.C. Srivastava, learned counsel for the applicants and learned A.G.A. for the State.

The present application has been filed for staying the proceedings of Case No. 417 of 2021 (State vs. Puneet Kishore and others), u/s 498-A I.P.C. and 3/4 D.P. Act, P.S. Sadar Bazar, District Saharanpur, pending before Civil Judge (J.D.), F.T.C. (Offence against women), District Saharanpur and for giving effect to an order dated 3.8.2001 passed by the Apex Court in Transfer Petition (C) No. 260 of 2000 (Anjana Kishore vs. Puneet Kishore).

Contention of learned counsel for the applicants is that in pursuance of the order dated 3.8.2001 of the Apex Court in Transfer Petition (C) No. 260 of 2000 (Anjana Kishore vs. Puneet Kishore), a compromise was entered into between the parties which is also the part of the order of the Apex Court. In pursuance of that compromise, the Family Court at Bandra, Mumbai has also granted divorce decree and the entire amount deposited by the applicants in pursuance of the order of the Apex Court, has also been released in favour of opposite party No.2. However, the opposite party No.2 has not withdrawn the proceeding u/s 498-A I.P.C., pending in the Court of C.J.M., Saharanpur in pursuance of the order of the Apex Court as well as the compromise entered into between the parties before the Family Court at Bandra, Mumbai.

Matter requires consideration.

Issue notice to opposite party No.2.

List in the week commencing 30.10.2023 before appropriate Bench.

Till the next date of listing, no coercive action shall be taken against the applicants in Case No. 417 of 2021 (State vs. Puneet Kishore and others), u/s 498-A I.P.C. and 3/4 D.P. Act, P.S. Sadar Bazar, District Saharanpur, pending before Civil Judge (J.D.), F.T.C. (Offence against women), District

Saharanpur.

This matter shall not be treated as part heard or tied up with this Bench."

5. As per office report dated 04.04.2026 notice has been served personally on the opposite party no. 2. The records show that a report dated 02.11.2023 of C.J.M., Saharanpur has been received which states that notice has been served personally on the opposite party no. 2. Despite service no one appears on her behalf even when the matter has been taken up in the revised call.

6. The dispute in the present matter is matrimonial in nature. Previously the applicants had filed a Criminal Misc. Application U/S 482 No.8982 of 2005, Punit Kishor and 03 others vs. State of U.P. and another, in which further proceedings of case as pending before the trial court concerned, were stayed vide order dated 20.07.2005 passed by another Bench of this Court. The said order reads as under:-

"Heard learned counsel for the applicants and learned AGA. for the State.

Counsel for the applicants submits that the parties to the dispute had already entered into a compromise before the Apex Court in the Transfer petition. A copy of the order of transfer petition (civil) no.260 of 2000 is annexed as annexure no. 2 to the affidavit filed in support of this application. However, there is nothing to show that the criminal proceedings stood resolved at the Apex Court. Counsel for the applicants has brought a copy of the compromise application where in paragraph no.2, it has been stated that the parties have withdrawn all the criminal and civil proceedings pending in the court. In compliance to the aforesaid compromise, the applicants who were already granted interim order in criminal misc. application no 5512 of 2000

(Annexure No 1) did not pass this application and was dismissed for want of prosecution.

Looking to the facts and circumstances of the case, issue notice to the opposite party no. 2 returnable at an early date. She may file counter affidavit within three weeks from the date of receipt of notice. Learned AGA. shall also file counter affidavit within four weeks from today. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List immediately on expiry of the aforesaid period.

Meanwhile, further proceedings in case no 2222 of 2000, State Vs. Punit Kishor under Section 498-A I.P.C. & 3/4 Dowry Prohibition Act, Police Station Sadar Bazar, District Saharanpur, pending in the court of Chief Judicial Magistrate, Saharanpur shall remain stayed."

7. The said petition was subsequently dismissed in default vide order dated 19.5.2018 passed by another Bench of this Court and interim order was vacated. The said order reads as under:-

"Case called out in the revised list.

None present on behalf of the applicant to press this application. Sri R.K.

Maurya, learned A.G.A. is present.

It seems that the cause of action for filing this application has become infructuous.

Accordingly, the application is dismissed in default.

Interim order, if any, stands vacated."

8. Thus the present petition has been filed before this Court by 02 of the said applicants.

9. Submission of learned counsel for the applicants is that Transfer Petition (Civil) No.260 of 2000, Anjana Kishore vs. Puneet Kishore was filed before the Apex Court in which an

order dated 03.08.2001 was passed by which the same was disposed of and compromise entered into between the parties was considered in the same. The said order reads as under:-

"This transfer petition seeks transfer of divorce petition No. A-509/2000 titled "Sri Punit Kishore Vs. Smt. Anjana Kishore" filed by the respondent-husband before the Family Court at Bandra, Mumbai. The transfer is sought to the Family Court at Saharanpur. After notice was issued in this petition, efforts were made for settlement. The parties have filed the Terms of Compromise in this Court. The same are taken on record.

In terms of paras 3 and 4 of the Terms of Compromise, four demand drafts totalling to Rs. 7,00,000/- (Rupees seven lakhs) only (3 demand drafts of Rs.2,00,000/- each and one demand draft of Rs.1,00,000/-) payable at Saharanpur have been presented in Court today by the respondent's counsel. The demand drafts are in the name of the petitioner. There is also provision in the Terms of Compromise with regard to the custody and visiting rights of the parties to the child born out of marriage. Both the parties, who are also personally present in Court, have now agreed to get divorce by mutual consent.

In view of the developments which have taken place during the pendency of proceedings in this Court, we decline to transfer the case from Family Court at Bandra, Mumbai to the Family Court at Saharanpur. We, however, direct that as agreed to by learned counsel for the parties, a joint petition shall be filed by the parties before the Family Court at Bandra, Mumbai for grant of divorce by mutual consent. Terms of compromise as filed before us

shall also accompany the joint petition. An application for curtailment of time for grant of divorce shall also be filed alongwith the joint petition. On such application being moved the Family Court may, dispensing with the need of waiting for six months, which is required otherwise by sub-Section (2) of Section 13-B of Hindu Marriage Act, 1955, pass final order on the petition with in such time as it may deem fit. This direction we are making under Article 142 of Constitution, as looking at the facts and circumstances of the case emerging from pleadings of the parties and disclosed during the course of hearing, we are satisfied of the need of making such a direction to do complete justice in the case. The parties shall present themselves before the learned Presiding Officer, Family Court at Bandra, Mumbai on 17.9.2001 when the learned Presiding Judge shall take further appropriate steps.

The four demand drafts as referred to above, shall remain in the custody of Registrar (Judicial) of this Court and on the petitioner furnishing a copy of the order of the Family Court at Bandra, Mumbai regarding grant of divorce, the drafts shall be handed over to her.

With the above observations, the transfer petition is disposed of. There shall be no order as to costs insofar as this petition is concerned."

10. A compromise between the parties dated 03.08.2001 was filed before the Apex Court. Pursuant to the order of the Apex Court the Judge, Family Court No. 6, Mumbai at Bandra dissolved the marriage between the parties by a decree of divorce under Section 13 B of Hindu Marriage Act vide order dated 05.10.2001 in M.J. Petition No.A/509/2000, Shri Puneet

Kishore vs. Smt. Anjana Kishore. The said order reads as under:-

"Whereas the original petition was filed by petitioner husband for divorce on the ground of cruelty. Respondent appeared before the court. Both the parties have filed a joint application to convert the original petition for divorce by mutual consent. Both the parties have signed the said application. The petitioner(ori. respondent) had filed a transfer petition in Hon'ble Supreme Court and both of them were present in the supreme court where they agreed to take divorce by mutual consent. Both of them have signed the consent terms in the Supreme Court and, the copy of the said consent terms is produced by them. They have stated before the court that they have signed the said consent terms voluntarily, without any force or coercion.

Whereas both the parties stated before the court that they got married on 19th November, 1989 at Shaharanpur, Uttar Pradesh, according to Hindu Vedic rites. After the marriage they resided together at the matrimonial house at Agartala in Tripura State initially and thereafter at Kandivli, Mumbai. There is one son by name 'Chiranjeev' aged 6 years born out of the wedlock. Said son is in care and custody of petitioner. And because of the temperamental differences they could not stay together and they started residing separately from each other since 12th October 99 onwards.

This petition came for hearing before Smt.B.Y. Parikh, Judge, Family Court No.6, Mumbai at Bandra and upon hearing of both the parties in persons, the court has passed the following order on 5th October, 2001.

The converted petition is allowed.

The marriage solemnized between the parties on 19th November, 1989 is hereby dissolved by decree of divorce u/s 13-B of the Hindu Marriage Act, 1955.

The permanent custody of their minor son 'Chiranjeev' shall remain with the petitioner/father.

Consent terms at Exh.12 to form part of the decree.

No order as to costs.

CONSENT TERMS

- 1. Both the parties have agreed that the marriage between the parties be dissolved an irreconcilable.*
- 2. Both the parties will withdraw all Civil and Criminal cases pending at Bombay, Allahabad and elsewhere.*
- 3. Petitioner (wife) have received in the court, 6 lakh rupees by way of 3 demand drafts of 2 lakhs each payable at Saharanpur lump sum permanent alimony. She will not claim any further alimony.*
- 4. The petitioner (wife) has further received one lakh rupees by way demand draft payable at Saharanpur as expenses of visiting the child.*
- 5. The respondent (father) will bring the child (son of 6 years) to Delhi after every 3 months and hand over the child to his mother at New Delhi Railway station in the morning and receive back in the evening, after due prior notice of one week. The child will stay with the father.*

6. The son at his option, may join his mother at Saharanpur during vocation.

7. The mother (petitioner) may visit the son at Bombay whenever she like after one week's prior notice.

8. The petitioner has received back all her jewellery (stridhan) and nothing remains with the respondent.

9. Both the parties will inform the change of address, if any. "

11. Submission of learned counsel for the applicants is that an application was filed before the trial court concerned by the applicants since the parties have entered into compromise, praying that the present matter may be closed which has been dismissed vide order dated 30.5.2005 passed by the C.J.M., Saharanpur. The said order has been placed before the Court which is annexure no. 5 to the affidavit in support of this application. It is submitted that thus the present petition has been filed by the applicants with the aforesaid prayers which may be allowed.

12. The facts thus which emerge out as of now in the present matter are as under:-

(A) A Transfer Petition (C) No. 260 of 2000 was filed before the Apex Court which was decided vide order dated 03.8.2001.

(B) A compromise dated 03.08.2001 was filed before the Apex Court and on considering the same the said transfer petition was decided on the said date.

(C) The petition under Section 13B of the Hindu Marriage Act was allowed vide judgement and order dated 05.10.2001 by the Family Court concerned in compliance of the directions of the Apex Court dated 03.08.2001 and compromise dated 03.08.2001.

(D) An Application U/S 482 Cr.P.C. No. 8982 of 2005, was filed before this Court by the applicant- Puneet Kishore and three others, challenging the proceedings of the said case. The disclosure of the said petition has been made in para-19 of the affidavit in support of the present application, which reads as under:-

"19. That against order dated 30.05.2005 the applicants, his deceased father and sister moved an application under Section 482 Cr.P.C. having its numbered as 8982 of 2005 before this Hon'ble Court was pleased to pass an interim order dated 20.07.2005 staying the further proceeding od 2222 of 2000 pending in the court of CJM, Saharanpur. The true copy of order dated 20.07.2005 is being annexed herewith and is marked as Annexure 6 to the affidavit."

(E) The said petition stood dismissed in default vide order dated 19.5.2018. The disclosure of the same is in para-20 of the affidavit in support of this application, which reads as under:-

"20. That it is most unfortunate that on 19.05.2018 the application no.8982 of 2005 was dismissed and default by Hon'ble J. D.K. Singh and interim order was vacated. The true copy of order dated 19.05.2018 is being annexed herewith, is marked as Annexure 7 to the affidavit."

(F) Subsequently after 05 years the present petition under Section 482 Cr.P.C. has been filed by the applicants on 11.08.2023 with the prayers as aforesaid.

13. The facts that the grounds as are being pleaded in the present application under Section 482 Cr.P.C. were available to the applicants even earlier is not disputed by learned counsel for the applicant. The same is also evident from the order dated 20.07.2005 passed by another Bench of this Court in an Application U/S 482 Cr.P.C. No. 8982 of 2005. The said petition stood dismissed in default. Reference and even arguments of the learned counsel for the applicants do not

show any effort to get the same restored and to ventilate the cause therein further. Learned counsel for the applicants was asked as to whether any efforts have been taken by him in the same, to which he states that no such efforts have been taken but the present petition has been filed under Section 482 Cr.P.C. to pass an order to give effect to the order dated 03.08.2001 of the Apex Court while exercising powers under Section 482 Cr.P.C.

14. The law with regards to such situation is quite clear. The grounds/pleas that were available to be raised earlier can be raised in a subsequent petition or not, the Apex Court in the case of ***M.C. Ravikumar v. D.S. Velmurugan : 2025 SCC OnLine SC 1498*** took up a question for consideration which reads as under:

“11. The short question that arises for our consideration is “Whether a second quashing petition under Section 482 CrPC would be maintainable on the grounds/pleas that were available to be raised even at the time of filing/decision of the first quashing petition ?””

The matter was the finally decided as under:

“13. This Court in catena of judgments has held that it is not open to an accused person to raise one plea after the other, by repeatedly invoking the inherent jurisdiction of the High Court under Section 482 CrPC, though all such pleas were very much available to him even at the first instance. We may hasten to add that there is no sweeping rule to the effect that a second quashing petition under Section 482 CrPC is not maintainable and its maintainability will depend on the facts and circumstances of each case. However, the onus to show that there arose a change in circumstances

warranting entertainment of a subsequent quashing petition would be on the person filing the said petition. In this regard, we may gainfully refer to the observations made by this Court in the case of *Bhisham Lal Verma v. State of UP*, 2023 SCC OnLine SC 1399, which are extracted below for ready reference:—

“11. Though it is clear that there can be no blanket rule that a second petition under Section 482 Cr. P.C. would not lie in any situation and it would depend upon the facts and circumstances of the individual case, it is not open to a person aggrieved to raise one plea after the other, by invoking the jurisdiction of the High Court under Section 482 Cr. P.C., though all such pleas were very much available even at the first instance. Permitting the filing of successive petitions under Section 482 Cr. P.C. ignoring this principle would enable an ingenious accused to effectively stall the proceedings against him to suit his own interest and convenience, by filing one petition after another under Section 482 Cr. P.C., irrespective of when the cause therefor arose. Such abuse of process cannot be permitted.”

(Emphasis Supplied)

14. Furthermore, we are of the opinion that the order passed by the High Court in the second quashing petition amounted to review (plain and simple) of the earlier order passed by the coordinate bench of the High Court in the first quashing petition, since there was admittedly no change in circumstances and no new grounds/pleas became available to the accused-respondents, after passing of the order of dismissal in the first

quashing petition. The order passed by the High Court is in gross disregard to all tenets of law as Section 362 CrPC expressly bars review of a judgment or final order disposing of a case except to correct some clerical or arithmetical error.

*15. This Court has time and again held that the High Courts while exercising their inherent jurisdiction under Section 482 CrPC cannot override a specific bar laid down by other provisions of CrPC, i.e., to say that the High Court is not empowered to review its own decision under the purported exercise of its inherent powers. To fortify the aforesaid conclusion, we may gainfully refer to the observations made by this Court in the case of *Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee*, (1990) 2 SCC 437, the relevant portions whereof are quoted below for ease of reference:*

*“6. In *Superintendent & Remembrancer of Legal Affairs v. Mohan Singh*, (1975) 3 SCC 706, this Court held that Section 561A preserves the inherent power of the High Court to make such orders as it deems fit to prevent abuse of the process of the Court or to secure the ends of justice and the High Court must therefore exercise its inherent powers having regard to the situation prevailing at the particular point of time when its inherent jurisdiction is sought to be invoked. In that case the facts and circumstances obtaining at the time of the subsequent application were clearly different from what they were at the time of the earlier application. The question as to the scope and ambit of the inherent power of the High Court vis-a-vis an earlier order made by it was, therefore, not concluded by this decision.*

7. The inherent jurisdiction of the High Court cannot be invoked to override bar of review u/s 362. It is clearly stated in Sooraj Devi v. Pyare Lal, (1981) 1 SCC 500 that the inherent power of the Court cannot be exercised for doing that which is specifically prohibited by the Code. The law is therefore clear that the inherent power cannot be exercised for doing that which cannot be done on account of the bar under other provisions of the Code. The court is not empowered to review its own decision under the purported exercise of inherent power. We find that the impugned order in this case is in effect one reviewing the earlier order on a reconsideration of the same materials. The High Court has grievously erred in doing so. Even on merits, we do not find any compelling reasons to quash the proceedings at that stage.”

(Emphasis supplied)

16. In the instant case, the quashing by the High Court of a similar complaint, i.e., Criminal Complaint No. 41 of 2015 filed by the complainant against the accused-respondents in respect of properties situated at Thanjavur vide order dated 9th March, 2020 was an event that happened well before the dismissal of the first quashing petition under Section 482 CrPC and the said ground/plea was manifestly available to the accused-respondents while seeking adjudication of the first quashing petition. That being the situation, the accused-respondents were not at liberty to invoke the inherent jurisdiction of the High Court raising the aforesaid ground/plea at a later point of time by filing the second quashing petition.”

15. The situation in the present matter is even slightly distinct

from the case of *M.C. Ravikumar (Supra)* inasmuch as in the present case the ground of matter being settled and a compromise has been drawn and also an order of the Apex Court was already passed, was agitated in the petition under Section 482 Cr.P.C. which stood dismissed in default and no action was taken to get the same restored and then pursue the same and subsequently after five (5) years by the present prayers this application under Section 482 Cr.P.C. has been filed.

16. In the opinion of the Court this petition thus is not maintainable and as such the same is dismissed.

17. Pending application(s), if any, shall stand disposed of.

18. Interim order, if any, stands vacated.

19. Registrar (Compliance) to communicate this order to the concerned trial court/District Judge within two weeks from today for information and necessary action.

(Samit Gopal,J.)

April 6, 2026

Naresh