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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1778/2015**

Date of Decision : September 28th , 2015

SANJIV ARYA

..... Petitioner

Through: Mr.Pankaj Garg and Mr.Rakesh
Chaudhry, Advs.

versus

STATE & ANR

..... Respondent

Through: Ms.Manjeet Arya, APP for the State.
Mr.Jagadish Sethi, Adv. for
Respondent No.2.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C. for quashing of FIR No.220/2002 dated 09.04.2002, under Sections 498-A/323/506/34 of IPC registered at Police Station Rajouri Garden, Delhi on the basis of Settlement dated 23.11.2012 arrived at Delhi Mediation Cell, Tis Hazari Courts, Delhi.

2. Learned Additional Public Prosecutor for respondent-State submitted that respondent No.2, present in the Court, had been identified to be the complainant/first-informant of the FIR in question

by her counsel.

3. Respondent No.2, present in the Court, submits that the dispute between the parties has been amicably resolved vide aforesaid Settlement and terms thereof have been fully acted upon as she has received a sum of Rs. 2 Lakhs i.e. a sum of Rs.1,50,000/- at the time of granting of anticipatory bail and the further sum of Rs.50,000/- at the time of recording of the statements of the parties in the first motion on 06.02.2013. Petitioner at the time of recording of the statement of the parties in the second motion of divorce by mutual consent has further deposited a sum of Rs.2 lakhs in Tis Hazari Courts, Delhi vide demand draft/banker's cheque bearing No.325948 drawn on Oriental Bank of Commerce, Rajouri Garden Branch, Delhi dated 09.12.2013 and the same would be released after the quashing of the FIR in question. It is agreed between the parties that the petitioner shall transfer 50% of his share in the industrial property located in Bhopal, M.P. in favour of the respondent no. 2. Respondent No.2 affirms the contents of aforesaid Settlement and of her affidavit dated 09.03.2015 supporting this petition and submitted that now no dispute with the petitioner survives and so, the

proceedings arising out of the FIR in question be brought to an end.

Statement of the respondent No.2 has been recorded in this regard.

4. In *Gian Singh v. State of Punjab (2012) 10 SCC 303*, Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

“61. 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 proceedings or continuation of criminal proceedings 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 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 proceedings.”

5. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in *Narinder Singh v. State of Punjab (2014) 6 SCC 466*. The pertinent observations of the Apex Court in *Narinder Singh (Supra)* are as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and

prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

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.”

6. So far as the other family members of the petitioner viz. Smt. Sheela Arya (mother-in-law), Sh. Chandra Prakash Arya (brother-in-law), Smt. Jyotsna Arya (sister-in-law), Smt. Usha Arya (sister-in-law) and Smt. Seema Arya (sister-in-law) are concerned, they have already been discharged by the learned Metropolitan Magistrate vide order dated 17.04.2012.

7. The Hon'ble Apex Court and this Court is of the considered opinion that the inherent powers under Section 482 Cr.P.C. are ought to be exercised in the absence of express provisions of law to prevent the abuse of process of law and to meet the ends of justice. So far the matrimonial disputes are concerned, they normally happen between the husband, the wife and her in-laws which ultimately results into the initiation of criminal proceedings and converts into hell the life of the husband and the wife and ultimately their entire life is being wasted in the litigation against each other. When normally the litigation is being initiated, some non-compoundable offences are also alleged between the parties. Definitely, if the offences are compoundable and are covered under Section 320 Cr.P.C, then the parties could settle down the dispute and compound the offences, but due to the addition of non-compoundable offences, it becomes endless litigation despite settling down the matter between the parties and unnecessarily the litigation is being prolonged. In other words, it could be termed that the pendency of such a litigation tantamount to abuse of process of law. The High Court while exercising the inherent power to meet the ends of justice ought to exercise its power to prevent the abuse of

process of law and to meet the ends of justice. In other words, if the matrimonial disputes are being settled down, this Court is of the considered opinion that the High Court must exercise its inherent power and put an end to the litigation between the parties arisen on account of matrimonial dispute.

8. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between parties, particularly when a sum of Rs.4,00,000/- has already been paid, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility and is a fit case for this Court to exercise its inherent jurisdiction.

9. Accordingly, this petition is allowed and FIR No.220/2002, under Sections 498-A/323/506/34 of IPC registered at Police Station Rajouri Garden, Delhi and the proceedings emanating therefrom are quashed against the petitioner.

10. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

SEPTEMBER 28, 2015

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