

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5452/2014**

Date of Decision: October 13th, 2015

SMT NEELAM SIBAL Petitioner

Through: Mr.Vijay Babbar, Adv.

versus

STATE (NCT OF DELHI) & ANR. Respondents

Through: Mr.Arun Kr.Sharma, APP.
Respondent No.2 in person.
ASI Beg Raj, 6723-D, CAW Cell,
South District.

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

P.S.TEJI, J.

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioner, for quashing of FIR No.169/2009 dated 04.08.2009, under Sections 498A/406/34 of IPC, 1860 registered at Police Station Crime Women Cell, Nanak Pura, New Delhi on the basis of the mediation settlement arrived at between the complainant/respondent No.2, namely, Ms.Ashima Bajaj and the petitioner, namely, Smt. Neelam Sibal at the Mediation Centre, Dwarka Courts, New Delhi on 22.10.2013.

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

3. So far as, other accused persons, namely, Nitin Sagar Bajaj (husband of respondent no.2), his brother and parents are concerned, the FIR in question was quashed against them by virtue of the settlement arrived at the Mediation Centre, Dwarka Courts dated 22.10.2013 between all the accused persons including the petitioner-herein and respondent no.2-herein, vide order dated 31.10.2014 passed in CrI.M.C. 4889/2014. Thus, the present petition is filed by the petitioner/co-accused for quashing of the FIR in question.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties has been amicably resolved. Respondent no.2 has no grievances against the petitioner and parties have settled all their claims/disputes. Nitin Sagar Bajaj/husband already paid a sum of Rs.18,00,000/- towards full and final settlement of all claims of Smt.Ashima Bajaj regarding stridhan, permanent alimony and

maintenance (past, present and future). Out of the total amount, a sum of Rs.2,00,000/- was paid by Nitin Sagar Bajaj to respondent no.2 at the time of recording of statement during first motion petition under Section 13-B(1) of HMA and Rs.6,00,000/- at the time of second motion of divorce. Balance amount of Rs.10,00,000/- was paid by Nitin Sagar Bajaj to respondent no.2 at the time of quashing of the FIR in question with respect to him, his brother and his parents. The decree of divorce has already been granted by the Sessions Court. As the dispute between the parties has been resolved no useful purpose will be served in continuing the prosecution of the petitioner. 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 in which she stated that she has entered into a compromise with the petitioner and has settled all the disputes with her. She further stated that she has no objection if the FIR in question is quashed.

5. 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.”

6. 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 relevant 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.

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 secure the ends of justice. Matrimonial litigation is one of the cases where the dispute arises on small issues or differences at a particular point of time which culminates into the situation of entering into the litigation. These differences if not permitted to be sort out immediately or during the short tenure then it leads to the multiplicity of the litigation and makes the life of the family members/relatives as hell. This Court is of the considered opinion that in matrimonial disputes, the Court must exercise inherent power under Section 482 Cr.P.C. to secure the ends of justice and to avoid the abuse of process of law. 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 secure the ends of justice ought to exercise its power to prevent the abuse of process of law and to secure 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. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

9. *The Courts in India are now normally taking the view that endeavour should be taken to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs such as, matrimonial disputes between the couple or/and between the wife and her in-laws. India being a vast country naturally has large number of married persons resulting into high numbers of matrimonial disputes due to differences in temperament, life-styles, opinions, thoughts etc. between such couples, due to which majority is coming to the Court to get redressal. In its 59th report, the Law Commission of India had emphasized that while dealing with disputes concerning the family, the Court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. Further it is also the constitutional mandate for speedy disposal of such disputes and to grant quick justice to the litigants. But, our Courts are already over burdened due to pendency of large number of cases because of which it becomes difficult for speedy disposal of matrimonial disputes alone. As the matrimonial disputes are mainly between the husband and the wife and personal matters are involved*

in such disputes, so, it requires conciliatory procedure to bring a settlement between them. Nowadays, mediation has played a very important role in settling the disputes, especially, matrimonial disputes and has yielded good results. The Court must exercise its inherent power under Section 482 Cr.P.C. to put an end to the matrimonial litigations at the earliest so that the parties can live peacefully.

10. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, 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.

11. In the facts and circumstances of this case and in view of statement made by the respondent No.2, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

12. Accordingly, this petition is allowed and FIR No.169/2009 dated 04.08.2009, under Sections 498A/406/34 of IPC, 1860 registered at Police Station Crime Women Cell, Nanak Pura, New

Delhi and the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

OCTOBER 13, 2015
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