

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3652/2015**

Date of Decision: October 09th, 2015

RAJESH & ORS Petitioners

Through Mr.Anuj Soni, Adv.

versus

STATE & ANR Respondents

Through Mr.Panna Lal Sharma, APP.
Respondent No.2 in person.

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 petitioners, for quashing of FIR No.66/2007 dated 23.01.2007, under Sections 498A/406/34 of IPC, 1860 registered at Police Station Punjabi Bagh, west district, Delhi on the basis of settlement arrived at between the complainant/respondent No.2, namely, Smt. Rajrani and the petitioners, namely, Sh. Rajesh (husband of the complainant), Smt. Ram Bai (mother-in-law of the complainant), Sh. Kali Charan (father-in-law of the complainant), Sh. Vishnu (brother-in-law of complainant), Sh. Gunthey (brother-in-law of complainant), Sh. Murrari (brother-in-law of complainant), Sh. Mahesh (brother-in-law

of complainant) and Sh. Chimman (brother-in-law of complainant).

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 SI- Chhote Lal.

3. 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 petitioners. The parties vide the Settlement Deed dated 31.07.2014 arrived at the Mahila Court of learned Metropolitan Magistrate, West, Tis Hazari Courts, Delhi between Smt. Rajrani and Shri Rajesh settled their dispute. As per the settlement deed the complainant-respondent no. 2 has already received a sum of Rs. 1,90,000/- from the accused-Rajesh as per their settlement dated 03.06.2013. Qua the remaining amount, the parties again settled for an amount of Rs. 30,000/- which is to be paid by the petitioner no. 1-herein. As per the statement recorded on 31.07.2014 of the complainant-respondent no.2 she shall receive the first installment of Rs. 15,000/- from Rajesh by way of demand draft/pay order/cash in her name at the time of recording of the statement of

first motion in the petition for mutual divorce. She shall receive the final payment of Rs. 15,000/- from Rajesh by way of demand draft/pay order/cash in her name at the time of quashing of the FIR in question. As per the petition for quashing the FIR in question, petitioner no. 1 Rajesh has returned all the articles to respondent no. 2 and the petitioner no. 1 has already paid the first installment of Rs. 15,000/- to respondent no. 2. The marriage between the parties has been dissolved by mutual consent by a decree of Court passed on 29.05.2015. The respondent no. 2 has admitted that all the disputes between her and all the petitioners have been settled. It is further settled that the present settlement between the parties is full and final settlement which includes dowry articles, istridhan and maintenance for the present, past and future maintenance and permanent alimony etc. As the dispute between the parties has been resolved, no useful purpose will be served in continuing the prosecution of the petitioners. Now no dispute with the petitioners 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

petitioners and has settled all the disputes with them. She further stated that she has no objection if the FIR in question is quashed.

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 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.

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. 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.

7. 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.

8. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, particularly when an amount of Rs.2,20,000/- has 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. In the facts and circumstances of this case and in view of statement of respondent no.2 dated 31.07.2014 and the statement made by the respondent no.2 in Court, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

10. Accordingly, this petition is allowed and FIR No.66/2007 dated 23.01.2007, under Sections 498A/406/34 of IPC, 1860 registered at Police Station Punjabi Bagh, west district, Delhi and the proceedings emanating therefrom are quashed against the petitioners.

11. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

OCTOBER 09, 2015
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