

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

+ **CRL.M.C. 187/2016**

Date of Decision : April 22nd, 2016

KRISHAN KUMAR & ORS

..... Petitioners

Through Mr.Naresh Kumar, Adv.

versus

THE STATE (NCT OF DELHI) & ANR

..... Respondents

Through Mr.K.K. Ghai, APP for the State.

Ms.Suman Sharma, Adv. with

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, namely, Sh. Krishan Kumar, Sh. Kamal Kumar @ Babli and Sh. Rahul for quashing of FIR No.230/2014 dated 21.08.2014, under Sections 323/341/506/34 IPC registered at Police Station Kamla Market on the basis of the settlement agreement arrived at the Delhi Mediation Centre, Tis Hazari Courts, Delhi between the petitioner no.1 along with Smt. Sona Devi and respondent no.2, namely, Smt. Lalita on 16.04.2015.

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 in the FIR in question by her counsel.

3. The factual matrix of the present case is that the FIR in question was lodged by the complainant on the allegation that on 21.08.2014, a

domestic violence matter was going on in the Tis Hazari Courts, Delhi titled as “Lalita v. Krishan”. Thereafter, the complainant was returning home with her bua, when suddenly Krishan along with Kamal @ Babli, Rahul and one unknown person stopped them in the way and Krishan attacked on the complainant with a sharp object due to which she received injuries on her hands. The other three persons started hitting the complainant on her face and started to abuse her and threatened her by saying that if she does not take the above mentioned case back, then they would kill her. All the accused persons also attacked the bua of the complainant.

Thereafter, the respondent no.2/complainant filed a complaint under Section 12 D.V. Act and petition under Section 125 Cr.P.C. against the respondents and further on the complaint of the respondent no.2, FIR bearing No. 326/2014 under Section 498-A/406/34 IPC was registered at P.S. Chandni Mahal, Delhi and the FIR in question was also registered. Thereafter, the matter was referred to the mediation centre where the parties arrived at an amicable settlement with each other.

4. Respondent No.2 present in the Court submitted that the dispute between the parties has been amicably resolved. As per the settlement agreement, it has been agreed that petitioner no.1 and respondent no.2 shall dissolve their marriage by decree of divorce by mutual consent. It is also agreed that the petitioner no.1 shall pay Rs. 6.5 Lakhs and that he shall return all the items in good condition as enunciated in the terms of the agreement to respondent no.2 towards all legal entitlements past, present and future arising out of the marriage which

shall include permanent alimony maintenance, istridhan, maintenance of the child till his age of majority as per law and all other miscellaneous and legal expenses. It is also agreed that if the articles to be returned are not in good condition then the petitioner no.1 shall pay in cash, the amount, as per the bill of the respective article. It is also agreed that aforesaid articles shall be returned at the time of recording of statement of first motion. It is also agreed that the petitioner no.1 and respondent no.2 shall initiate appropriate legal proceedings for quashing of the FIRs mentioned in the terms of the agreement including the FIR in question and all other consequential proceedings arising out of the said FIRs within 55 days of the dissolution of marriage and at that time petitioner no.1 shall pay the balance amount of Rs. 2 Lakhs by way of DD/Cash to respondent no.2. It is also agreed that petitioner no.1 and respondent no.2 and their respective family members shall withdraw their respective cases and complaints filed in the different Courts on their next date of hearings. It is also agreed that petitioner no.1 and respondent no.2 shall cooperate in the execution of the terms and conditions of this settlement. It is also agreed that petitioner no.1 shall withdraw the complaint made against respondent no.2 before the Commissioner of Police after recording of statement of first motion. It is also agreed that after this settlement, there shall remain no dispute due between the parties arising out of the said marriage and that none of the parties or their family members shall file or contest any civil or criminal proceedings against each other in future and that if any other case/petition/complaint etc. between the parties is pending in any

Court or Authority, the same shall be withdrawn/got disposed of by the respective party. It is also agreed that if any delay is caused by petitioner no.1 in filing of quashing petition, then petitioner no.1 shall pay a sum of Rs. 5,000/- monthly to respondent no.2 till the filing of the quashing petition. It is also agreed that the matter pending before the Court of Sh. Dilbagh Singh Punia, under Section 125 Cr.P.C. shall be withdrawn by the respondent no.2 after recording of statement in the first motion petition on the date fixed i.e. 19.05.2015 and that in case the compromise fails then the said petition shall be revived. It is also agreed that the matter pending before the LD. MM under Section 12 D.V. Act and the execution of petition shall be withdrawn by the respondent no.2 after recording of the statement of the second motion. It is also agreed that the FIR bearing no. 558/2015, under Sections 323/341/34 IPC, PS Anand Parvat, FIR bearing no.559/2015, under Sections 323/341/34 IPC PS Anand Parvat and FIR No.326/2014 under Sections 498A/406/34 IPC registered at PS Chandni Mahal shall be compounded by the parties after recording of statement in second motion. It is also agreed that the FIR in question shall be compounded/quashed by respondent no.2 from the concerned Court after recording of statement in second motion petition. Respondent no. 2 affirmed the contents of the aforesaid settlement and of her affidavit dated 05.01.2016 supporting this petition. In her affidavit, she has stated that she has no objection if the FIR in question is quashed. All the disputes and differences have been resolved through mutual consent. Now no dispute with 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.

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 inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no.2 agreed to the quashing of the FIR in question and has stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, there

would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

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. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of *State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors.* MANU/SC/0842/2014 and in the case of *Inder Singh Goswami v. State of Uttaranchal* MANU/SC/0808/2009 has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not

affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy.

In the light of the aforesaid, this Court is of the view that the case being at an advance stage and that all the offences under Sections 323/341/34/506 IPC being compoundable offences in the light of Section 320 Cr.P.C., there should be no impediment in quashing the FIR under these sections and it would not be appropriate to reject the petition if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

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.230/2014 dated 21.08.2014, under Sections 323/341/34/506 IPC registered at Police Station Kamla Market and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

APRIL 22, 2016
dd