

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

+ **CRL.M.C. 714/2016**

Date of Decision : March 31st, 2016

VASUDEV RANA & ORS Petitioner

Through: **Mr.M.M.Bansal, Adv.**

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through: **Mr.Izhar Ahmad, APP.**

Mr.Satish K.Sansi, Adv.for R-2.

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.Vasudev Rana, Sh.Kishore Kumar, Smt.Raj Bala, Sh.Umesh Rana and Ms.Priyanka Singh for quashing of FIR No.146/2013 dated 20.11.2013, under Sections 323/354/354B/509/34 IPC registered at Police Station Gulabi Bagh/Pratap Bagh on the basis of the mediation report of the Delhi Mediation Centre, Tis Hazari, Delhi in Bail Application No. 4305 titled as 'State vs. Vasu Dev' arising out of FIR No.68/2014 under Sections 498A/406/34 IPC at Police Station Gulabi Bagh, in view of the settlement arrived at between the petitioner no.1 and respondent no.2, namely, Smt.Sapna Mahaala on 06.06.2014.

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 the marriage between the petitioner no.1 and respondent no.2 was solemnized on 25.02.2012 according to Hindu rites. The husband of the complainant and his family members used to commit physical and mental atrocities on the complainant regarding dowry. The complainant complained about the same with the CAW Cell, Sabzi Mandi, Delhi and started residing with her parents and now she is now a guest teacher in a school. On 20.11.2013 at about 2:15 pm, the complainant was coming back from school, when the petitioner no.1 met her and started teasing her. When the complainant objected to the same, the petitioner no.1 started mishandling her and scratched the complainant with his nails on both her hands. The complainant somehow saved herself and reached home. Then, the complainant along with her mother reached the house of petitioner no.1, where all the petitioners were present and petitioner no.1 came in an aggressive manner and tore the suit of the complainant's mother. The mother-in-law and sister-in-law of the complainant held the hands of the complainant and started mishandling her. The brother-in-law of the complainant was holding a danda in his hand and started abusing the complainant.

Thereafter, the respondent no.2 lodged a complaint against the petitioners which resulted into the FIR in question. Later on, both the parties were referred to the mediation cell, where they settled all their

disputes amicably.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the mediation report, it is agreed that the petitioner no.1 and respondent no.2 shall take divorce by way of mutual consent and that the parties shall jointly file the first motion petition under Section 13 B(1) on or before 10.07.2014 and that the second motion petition will be filed within 15 days after the expiry of the statutory period of six months. It is also agreed that the petitioner no.1 shall make a payment of Rs.6,00,000/- to respondent no.2 towards full and final settlement of all the claims of respondent no.2 towards stridhan, dowry articles, permanent alimony (past, present and future) and her maintenance. It is also agreed that the schedule of payment of the settlement amount shall be as enunciated in the terms of the mediation report. It is also agreed that the articles mentioned in annexure A of the mediation report shall be returned to respondent no.2 by the petitioner no.1 on or before 12.06.2014 against proper receipt from both the parties and their respective counsels. It is also agreed that the respondent no.2 shall not oppose the bail application of the petitioner no.1 and of the family members of the petitioner no.1 before the Ld. Referral Court. It is also agreed that the respondent no.2 shall withdraw the complaint filed by her under Section 12 of the D.V. Act pending before the Court of Ld. MM, THC, Delhi after recording statements in the first motion petition. It is also agreed that Ms. Sakshi, cousin sister of the petitioner no.1, shall also withdraw the complaint filed by her against the respondent no.2 and her family members and pending before

Police Station Gulabi Bagh. It is further agreed that the respondent no.2 shall cooperate with the petitioner no.1 and his family members in quashing of the FIR bearing no. 68/2014 under Sections 498A/406/34 IPC Police Station Gulabi Bagh referred for mediation as well as the FIR in question. It is also agreed that Ms. Sakshi, cousin sister of the petitioner no.1 shall also cooperate in getting the FIR, filed by Ms. Sakshi against respondent no.2 and her family members, quashed. It is also agreed that the both parties shall not interfere in each other's professional and personal lives in future. It is also agreed that the parties shall withdraw all the complaints/cases, if any, filed by them against each other or their family members apart from the litigations mentioned herein above, after recording statements in first motion petition and further agreed that they shall not file any complaint or case against each other and family members of each other in future. Respondent no. 2 affirmed the contents of the aforesaid settlement and of her affidavit dated 11.01.2016, supporting this petition. In the 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. Respondent no. 2 agreed to the quashing of the FIR in question and 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. Non-compoundable offences are basically an obstruction in

entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of ***B.S. Joshi and others v. State of Haryana and another 2003 (4) SCC 675*** the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

In the light of the aforesaid, this Court is of the view that notwithstanding the fact that the offences under Sections 354/354B IPC are non-compoundable offences, there should be no impediment in quashing the FIR under these sections, 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.146/2013 dated 20.11.2013, under Sections 323/354/354B/509/34 IPC registered

at Police Station Gulabi Bagh/Pratap Bagh and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 31, 2016

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