

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 788/2016**

Date of Decision: July 29th, 2016

ASHISH BHATIA

..... Petitioner

Through Mr.Yogesh Gupta, Adv. with
petitioner in person.

versus

STATE & ANR.

..... Respondents

Through Ms.Manjeet Arya, APP for the State.
Inspt.Hans Raj, PS. Shalimar Bagh.
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 petitioner, namely, Sh. Ashish Bhatia for quashing of FIR No.260/2012 dated 27.09.2012, under Sections 66A/67 IT Act, 2000 registered at Police Station Shalimar Bagh on the basis of Settlement Agreement entered into between the petitioner and the respondent nos.2, namely, Smt. Mona on 26.03.2015.

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 of the FIR in question by her counsel.

3. The factual matrix of the present case is that the marriage was solemnized between petitioner and the respondent no.2 on 14.05.2009 and soon after the marriage, the petitioner left the company of respondent no. 2. A case of domestic violence and one in the Women Cell, Kirti Nagar filed by the respondent no. 2 are pending against the

petitioner. During the pendency of these matters, the petitioner visited the house of respondent no. 2 and forced her to withdraw the cases. When the respondent no. 2 denied doing so, the petitioner showed obscene photographs in his phone and started threatening her to upload the same on the internet. Respondent no. 2 lodged a complaint against the above said act of the petitioner in PS Hari Nagar after which the petitioner made a fake account in the name of the respondent no. 2 and uploaded her obscene photographs. When the respondent no. 2 requested the petitioner to close the account, he further threatened her to upload more photographs like that and he also informed the friends of the respondent no. 2 about the account.

Thereafter, the complainant lodged a complaint at the instance of which, the FIR in question was registered. A compromise/Settlement was arrived at between the Petitioner and the Respondent no. 2 on 26.03.2015 before the counseling cell, Tis Hazari Courts, when the dispute was pending in the Court of Ld. Principal Judge, Family Court, Tis Hazari Courts, Delhi.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the settlement, it is agreed that the petitioner shall pay a sum of Rs.10,00,000/- towards full and final settlement of all the claims arising out of their marriage in the manner enunciated as per the terms of the settlement. It is agreed that the quashing petition for all the FIRs lodged by respondent no. 2 against petitioner shall be filed within one month from the date of settlement. It is agreed that the respondent no.2 shall cooperate in quashing of the FIR in question and the petitioner

shall pay the final installment of Rs. 6,00,000/- at that stage in the manner enunciated in the terms of settlement. Respondent No.2 affirmed the contents of the aforesaid settlement and of her affidavit dated 28.01.2016 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 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/settlement with the petitioner and has settled all the disputes with him. 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 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 tranquility 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.

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.260/2012 dated 27.09.2012, under Sections 66A/67 IT Act, 2000 registered at Police Station Shalimar Bagh and the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of.

**(P.S.TEJI)
JUDGE**

JULY 29, 2016/dd