

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

+ **CRL.M.C. 1765/2016 & CrI. M.A. 7443/2016**

Date of Decision: July 15th, 2016

VIMLA SHARMA

..... Petitioner

Through: Mr. Anand Grover, Senior Advocate
with Mr. Saurabh Chauhan, Mr. Varun
Jain, Advocates

versus

MONICA & ORS

..... Respondent

Through: Respondent No. 1 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, Smt. Vimla Sharma for quashing of the Criminal Complaint Case No. 9/3/15 under Section 417 IPC pending in the Court of Ms. Vijeta Singh Rawat, Ld. MM, (Mahila Court), Saket Courts, New Delhi and to release the amount of Rs. 2.5 crore in favour of respondent no.1 in terms of the order dated 03.03.2016 and 04.04.2016 of the Hon'ble Supreme Court.

2. The factual matrix of the present case is that the respondent no.1 was married to Sh. Vikas Sharma on 16.01.2004 according to Hindu rites and ceremonies. The respondent no.1 filed the complaint in question against the accused persons by alleging that the accused

persons have deceived her and induced her to marry Sh. Vikas Sharma. The respondent no.1 was deserted by her husband just after five months of the marriage on the internet vide his email. It is also alleged that the accused persons have not only used, abused, tortured, insulted, deserted and defamed the complainant.

However, the respondent no.1 moved an application for settlement and thereafter, the concerned parties were able to finalize the terms of settlement.

3. Respondent No.1 present in the Court submitted that the dispute between the parties has been amicably resolved. As per the order dated 13.01.2016, respondent no.1 shall receive a total sum of Rs. 2.5 crore towards full and final settlement of all her claims for maintenance etc. and in full and final of all her disputes pending in several Courts. The said amount shall be deposited with the Registrar Supreme Court of India within 60 days from the date of the said order. Within a week of the deposit of the said amount, the respondent no.1 agreed to withdraw the execution petition filed for recovery of her maintenance arrears and Mr. Vikas Sharma agreed to withdraw his petition under Section 13 (1)(ia) HMA. It is also agreed that within a week of the withdrawal of the said petitions, the respondent no.1 and Vikas Sharma shall file a joint petition for divorce by mutual consent. It is further agreed that within a week of the divorce being granted, the parties shall approach the Supreme Court for quashing both the criminal complaints filed by respondent no.1 and all the consequential proceedings. It is also agreed that at no time, respondent no.1 shall insist on the physical presence of Sh. Vikas Sharma before any Court. It is also agreed that

the settlement amount shall be paid by Mr. Naresh Tolani and if the settlement fails for any reason attributable to respondent no.1, then the settlement amount shall be refunded to Naresh Tolani and if the settlement fails due to Sh. Vikas Sharma, then the settlement amount shall be forfeited. Respondent no. 1 affirmed the contents of the aforesaid settlement. 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 criminal complaint case in question be brought to an end. Statement of the respondent no.1 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 criminal complaint case 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.

6. 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.1 agreed to the quashing of the criminal complaint case 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.

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. 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.

9. 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 the offence under Section 417 IPC is a compoundable offence in the light of Section 320 Cr.P.C., thus, there should be no impediment in quashing the criminal complaint under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

10. In the facts and circumstances of this case and in view of statement made by the respondent no.1, the criminal complaint case in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

11. Accordingly, this petition is allowed and Criminal Complaint Case No. 9/3/15 under Section 417 IPC pending in the Court of Ms. Vijeta Singh Rawat, Ld. MM, (Mahila Court), Saket Courts, New Delhi and the proceedings emanating therefrom are quashed against the petitioner.

12. As per the orders dated 03.03.2016 and 04.04.2016 of Hon'ble Supreme Court, a sum of Rs. 2.5 crore was deposited with the Registrar General of this Court. As per the direction of the Hon'ble Supreme Court same is hereby directed to be released in favour of

“Monica Malhotra”-respondent no.1, r/o I-6, Lajpat Nagar 2, New Delhi 110024. Let the cheque be prepared accordingly.

13. This petition and the application CrI. M.A. 7443/2016 are accordingly disposed of.

(P.S.TEJI)
JUDGE

JULY 15, 2016
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