

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4697/2015

Date of Decision : February 05th, 2016

RANI BINDRA & ORS

..... Petitioner

Through: Ms. Meenakshi Juneja, Advocate for
petitioner No.1 to 8.

versus

STATE (GOVT OF NCT OF DELHI) & ORS

..... Respondent

Through: Mr. Satya Narayan, Additional Public
Prosecutor for the State
Mr. S.K. Sharma, Advocate for
respondent No. 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, Smt. Rani Bindra, Sh. Sunil Bindra, Smt. Jyoti Gulati, Sh. Rajan Gulati, Smt. Deepa, Sh. Namish Sahni, Smt. Ramesh Katyal and Sh. Sameer Katyal for quashing of FIR No.679/2014 dated 23.06.2014, under Sections 498A/406/34 IPC and Section 4 Dowry Prohibition Act registered at Police Station Begum Pur on the basis of the mediation report of the Delhi Mediation Centre, Rohini District Courts, Delhi between the petitioner no.1 and

respondent Nos.2 & 3, namely, Smt. Pinki Bindra and Sh. Gaurav Bindra, respectively on 27.01.2015.

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 between respondent no.3 and respondent no.2 was solemnized on 29.04.2013 according to the Hindu rites and ceremonies. After the marriage, the in-laws of the complainant/respondent no.2 started abusing the complainant and her family members in filthy and vulgar language. They even went to the extent of abusing and slapping the complainant on slightest pretext. The in-laws of the complainant also pressed her parents to buy a plot of land for their son. On 18.11.2013, even after knowing about the pregnancy of the complainant, the mother-in-law and the father-in-law of the respondent no.2 slapped her and manhandled her. All the jewellery items of the complainant are lying with her mother-in-law. With a view to throw out the complainant of the matrimonial house, her in-laws disconnected the

electricity and threatened to dispossess her from the house. On the complaint file by the respondent no.2, the FIR in question was registered.

In the present case, the petitioners were granted bail. The respondent no.2 had also filed complaint under Section 12 of the D.V.Act. The petitioner no.1 had filed a complaint case under Section 156(3) Cr.P.C. and a suit for recovery of possession, damages/mesne profits for illegal use and occupation against the respondent nos. 2 & 3. The matter was referred to the mediation cell where the parties arrived at an amicable settlement.

4. Respondent No.2, present in the Court, submitted that the dispute between the parties, i.e. namely petitioner no.1 and respondent nos. 2 & 3, has been amicably resolved. As per the mediation report, it has been agreed between the parties that respondent nos. 2 & 3 who are already residing in the rented accommodation in Narela area, shall further be residing in the same accommodation and that the rent for the same shall be paid by petitioner no.2 for as long as respondent nos. 2 & 3 shall choose to reside in the said rented accommodation. It is further agreed between the parties that one portion from property

bearing no.188-89, Ground Floor, Pocket-26, Sector-24, Rohini, Delhi-110085 shall be sold by petitioner no.1 as being the lawful owner within two years from the date of settlement and with the whole consideration amount received from such sale, two properties having the similar status shall be purchased in the area of Narela. It is further agreed that however, in case the need arises to extend the time from two years any further time, the same shall be done with the consent of both the parties. It is also agreed that one property shall be bought exclusively in the name of petitioner no.1, whereas the second property shall be bought jointly in the name of petitioner no.1 and respondent no.3. It is also agreed that the property bought jointly in the name of petitioner no.1 and respondent no.3 shall be exclusively used by respondent nos. 2 & 3 for residing purposes in the future. It is however also agreed that respondent nos. 2 & 3 shall not have any powers to sell the property, jointly owned by respondent no. 3 and petitioner no.1, during the lifetime of petitioner no.1 or her husband i.e. petitioner no.2 and that after the death of both of them the property would be transferred in the name of respondent no.3 and that respondent no.3 shall have all the rights to deal with the property as

an owner in future and other family members of the petitioner no.1 shall have no right, title or interest in that property in any manner whatsoever. It is further agreed that after getting the property in the name of respondent no.3, respondent nos. 2 & 3 shall not claim anything in future from the estate of petitioner no.1 or her family in any manner whatsoever. It has been mutually agreed that respondent nos. 2 & 3 undertake to vacate the ground floor of the suit property on or before 11.02.2015 and keys of the said portion shall be handed over to petitioner no.1 at the time of withdrawal of the present suit before Ld. Referral Court. It is also agreed between the parties that the complaint under Section 12 D.V.Act shall be withdrawn by respondent no.2 from the court concerned on or before 26.03.2015. It is also agreed between the parties that petitioner no.1 shall also withdraw her complaint under Section 156(3) Cr.P.C. from the Court concerned on or before 11.02.2015. It is further agreed between the parties that respondent no.2 shall fully co-operate with respondent no.3, petitioner no.1 and other family members in getting the FIR in question quashed from this Court by giving a favourable statement in this case and by signing all the relevant documents for this purpose. It

is further agreed between the parties that in view of this settlement, any complaint or cross complaint which is pending or within the knowledge of either party shall not be pursued by them any further. Respondent Nos.2 & 3 affirmed the contents of the aforesaid settlement and of their affidavits dated 29.07.2015 supporting this petition. In the affidavits, the respondent nos.2 & 3 have stated that they have 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 without any threat or coercion or undue influence 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. 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 the offences under Section 498A IPC & Section 4 of the dowry Prohibition Act 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. *The Courts in India are now normally taking the view that endeavour should be taken to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs such as, matrimonial disputes between the couple or/and between the wife and her in-laws. India being a vast country naturally has large number of married persons resulting into high numbers of matrimonial disputes due to differences in temperament, life-styles, opinions, thoughts etc. between such couples, due to which majority is coming to the Court to get redressal. In its 59th report, the Law Commission of India had*

emphasized that while dealing with disputes concerning the family, the Court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. Further it is also the constitutional mandate for speedy disposal of such disputes and to grant quick justice to the litigants. But, our Courts are already over burdened due to pendency of large number of cases because of which it becomes difficult for speedy disposal of matrimonial disputes alone. As the matrimonial disputes are mainly between the husband and the wife and personal matters are involved in such disputes, so, it requires conciliatory procedure to bring a settlement between them. Nowadays, mediation has played a very important role in settling the disputes, especially, matrimonial disputes and has yielded good results. The Court must exercise its inherent power under Section 482 Cr.P.C. to put an end to the matrimonial litigations at the earliest so that the parties can live peacefully.

12. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties,

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.

13. In the facts and circumstances of this case, in view of statement made by the respondent no. 2 and the compromise arrived at between the parties, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

14. Accordingly, this petition is allowed and FIR No.679/2014 dated 23.06.2014, under Sections 498A/406/34 IPC and Section 4 Dowry Prohibition Act registered at Police Station Begum Pur and the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

FEBRUARY 05, 2016
dd