

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

+ **CRL.M.C. 4682/2015**

Date of Decision : March 22nd, 2016

S NAVNEET SINGH & ANR Petitioner
Through Mr.Mohit Taneja, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondent
Through Ms.Manjeet Arya, APP for the State.
ASI Karamvir Singh, PS Rajouri
Garden.
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. S. Navneet Singh and Smt. Kawaljeet Kaur for quashing of FIR No.586/2015 dated 02.05.2015, under Sections 324/341/34 IPC registered at Police Station Rajouri Garden on the basis of the Memorandum of Understanding (MOU) arrived at between petitioner no.1 and respondent no.2, namely, Smt. Sahiba Kaur on 30.07.2015.

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 ASI Karamvir Singh.

3. The factual matrix of the present case is that the FIR in question was lodged by the complainant on the allegation that petitioner no.1 is the husband of the complainant and her husband and her mother-in-law used to torture her for dowry and one day the mother of the complainant took her back. On 02.05.2015 at about 12 in the morning, the complainant came to her matrimonial home for taking her articles the husband of the complainant caught her hand and her mother-in-law brought a bottle containing petrol or kerosene and she poured the same on the complainant. With great difficulty the complainant ran away and called the police. The complainant had also lodged a complaint two years back regarding the beatings given to her by her in-laws and husband.

Thereafter, the respondent no.2/complainant filed a complaint on the basis of which, the FIR in question was registered against the petitioners. After the intervention of the well-wishers etc., 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 MOU, it is agreed that the both parties shall apply and obtain divorce by mutual consent from each other. It is agreed that the children namely, Prabhnoor Kaur and Devraj Singh would remain in the permanent custody of the respondent no.2 and that the petitioner no.1 shall have no visitation rights or say in the upbringing of the children by the respondent no.2. It is also agreed that all decisions with regard to upbringing, education and other day to day life decisions of the

children shall be taken care of solely by respondent no.2. It is also agreed that the petitioner no.1 shall not meet or contact or approach, in any manner, respondent no.2 or their children in any manner whatsoever. It is also agreed that the respondent no.2 has agreed and handed over, during the execution of the present MOU, all jewellery, articles and valuables given by petitioner no.1. It is also agreed that the petitioner no.1 shall handover during the signing of this MOU, all valuable and other articles belonging to respondent no.2 and the children. It is also agreed that the articles as enunciated in document B annexed to the MOU have also been handed over to the respondent no.2. It is also agreed that the first motion petition shall be filed jointly by both parties within a period of seven days from the execution of the present MOU, thereafter a joint petition for quashing of FIR in question shall be filed within a period of one month. It is also agreed that the second motion petition shall be filed within the expiry of 6 months without any undue delay. It is also agreed that both the parties have not filed any case against each other except the FIR in question which was filed by respondent no.2 against petitioner no.1 and that after obtaining the decree of divorce, neither of the parties shall file, initiate or pursue any legal case/complaint against each other or their family members arising out of their wedlock. It is also agreed that the respondent no.2 and the children shall not claim any share or inheritance in the properties of the petitioner no.1 and/or that of his family members. It is also agreed that neither respondent no.2 nor the children shall claim anything from petitioner no.1 towards maintenance or alimony. It is also agreed that it shall be the sole

responsibility of the respondent no.2 to arrange the funds to cater to the needs of the children. It is also agreed that there is a financial transaction between petitioner no.2 and Mr. Harpal Singh Kochhar whereby petitioner no.2 has given a sum of Rs. 10 Lakhs to Sh. Harpal Singh Kochhar which shall be paid by the father of respondent no.2 to respondent no.2 at the time of execution of the MOU and the payment would discharge the obligation of Sh. Harpal Singh Kochhar towards petitioner no.2. It is also agreed that after the decree of divorce, none of the parties shall have any right, claim or entitlement upon each other or their family members in any manner whatsoever. It is also agreed that neither of the parties have filed any complaint, representation, legal proceedings against the other party and their family members. It is agreed that the case, complaint representation, if filed by the parties or their family members, shall be deemed to have been withdrawn. Respondent no. 2 affirmed the contents of the aforesaid settlement and of her affidavit dated 20.10.2015, respectively, 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. 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. 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 offence under Section 324 IPC is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, 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.586/2015 dated 02.05.2015, under Sections 324/341/34 IPC registered at Police Station Rajouri Garden and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 22, 2016
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