

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4714/2015**

Date of Decision : March 15th, 2016

MOHD NADEEM & ORS ... Petitioners

Through Mr.Pradeep Kumar, Adv.

versus

THE STATE (GOVT. OF DELHI & ANR) ... Respondents

Through Mr.Rajat Katyal, APP for the State.
SI Dinesh Kumar, PS Jyoti Nagar.
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. Mohd. Nadeem, Mohd. Nasir Hussain, Sh. Kamrunisha, Smt. Rafikan Bee, Sh. Ajin, Ms. Shahna, Ms. Shagupta and Ms. Gulishta for quashing of FIR No.174/2013 dated 13.05.2013, under Sections 498A/406/34 IPC and Section 4 Dowry Prohibition Act registered at Police Station Jyoti Nagar on the basis of the mediation report, Delhi Mediation Centre, Karkardooma Courts, Delhi in view of the settlement arrived at between the petitioner no.1 and respondent No.2, namely, Azmat Jahan on 23.07.2013.

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 SI Dinesh Kumar.

3. The factual matrix of the present case is that the marriage between petitioner no.1 and the respondent no.2 was solemnized on 12.10.2009. After the marriage, the complainant came to know that her husband is a habitual drinker and usually visits kothas and also that he was having illicit relations with a girl. The accused person snatched all the jewellery of the complainant and on the next day, Rs. 1 lacs went missing from the almirah of the complainant. All the in-laws and the husband of the complainant used to taunt her by calling her a divorcee. On 23.11.2010, the complainant gave birth to a female child and the in-laws of the complainant kept torturing her after that. On 10.04.2011, the husband of the complainant bought a new house where he used to do illegal work with his friends and even harmed the complainant by giving a wrong drink. On 27.05.2012, the husband of the complainant again gave her beatings and broke her jaw and threw her out and since then the complainant has been residing in her parental home.

The respondent no.2/complainant filed a written complaint to the CAW Cell, Nand Nagri, Delhi and on the basis of the said complaint, the FIR in question was registered against the petitioners. The petitioner no.1 was granted anticipatory bail. The petitioners moved for anticipatory bail and during the pendency of the same, the matter was referred to the mediation centre and finally the parties arrived at an amicable settlement.

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 petitioner no.1 shall pay to respondent no.2 a sum of Rs. 3 Lacs towards full and final settlement of all her claims including mehar, permanent alimony, stridhan, maintenance of children etc. It is further agreed that the above mentioned amount shall be payable in three installments. It is agreed that Rs. 1,03,000/- shall be payable on 24.08.2013 before the Court concerned by DD/cash. It is agreed that the second installment of Rs.1,03,000/- shall be paid on 24.10.2013 by DD/cash. It is also agreed that the third installment of Rs.1,03,000/- shall be paid by petitioner no.1 to respondent no.2 on or before 07.01.2014 in this Court at the time of quashing the FIR in question. It is also agreed that the petitioner no.1 shall file the quashing petition before this Court on or before 07.01.2014. It is also agreed that the petitioner no.1 shall pay an amount of Rs.1,000/- as maintenance to respondent no.2 and her children upto January, 2014. It is also agreed that the monthly maintenance of Rs. 1,000/- from August 2014 to January 2014 shall be included in the maintenance installments as given above. It has been further agreed that respondent no.2 shall withdraw the petition for maintenance which is pending before the concerned Court on 24.08.2013 by recording her statement of withdrawal before the concerned Court. It is also agreed that the respondent no.2 shall not claim any other amount of mehar etc. in future from petitioner no.1. It is also agreed that in the matter of divorce, both parties are free to seek divorce or pronounce Talaq in future. It is also agreed that the custody of the minor daughters shall remain with the respondent no.2

and that she shall be solely responsible for the upbringing of the children and shall not claim any other amount from the petitioner no.1 in future for her children. It is also agreed that the petitioner no.1 shall have visitation rights towards his daughters twice a month and the date and timing of meeting shall be mutually decided by the parties as per their convenience. Respondent No.2 affirmed the contents of the aforesaid settlement and of her affidavit dated 20.02.2015 supporting this petition. As per the affidavit filed by respondent no.2, she has settled all her disputes with the petitioners and 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 agrees 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 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.174/2013 dated 13.05.2013, under Sections 498A/406/34 IPC and Section 4

Dowry Prohibition Act registered at Police Station Jyoti Nagar and the proceedings emanating therefrom are quashed against the petitioners.

15. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 15, 2016

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