

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

+ CRL.M.C. 4802/2015

Date of Decision : February 05th, 2016

BAL KISHAN CHAUHAN & ANR Petitioner

Through Mr.Md. Qamar, Adv.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through Mr.Vinod Diwakar, APP for the State
Mr.P.N. Malik, Adv. for R-2 with
respondent no.2 in person.
ASI Subhash Chand Pandey, PS Jagat
Puri.

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, Shri Bal Kishan Chauhan and Smt. Madhu Chauhan for quashing of FIR No.143/2013 dated 13.03.2013, under Sections 323/354-A(I)/354-B/34 IPC registered at Police Station Jagat Puri on the basis of the mediation report of the Delhi Mediation Centre, Karkardooma Courts, Delhi arrived between Sh. Deepak Chauhan and the respondent no.2, namely, Smt. Geetika on 23.12.2014.

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 her counsel.

3. The factual matrix of this present case is that the marriage between the respondent no.2 and Deepak Chauhan was solemnized in the year 2010. After the marriage, complainant's in-laws started beating her and her in-laws used to instigate her husband to beat her. The father-in-law of the complainant used to make illicit moves towards her. The activities of the father-in-law of the complainant kept on increasing day by day and on the refusal of the complainant, on instigation of the father-in-law, the mother-in-law and the husband of the complainant used to beat her. The father-in-law used to sometimes touch the complainant on her waist, breast, cheek etc. In the meanwhile, the complainant gave birth to a female child. On telling the mother-in-law and husband about her father-in-law's activities, she used to be beaten up. After that, the complainant was thrown out of the house and was given a rented accommodation and all her dowry articles were retained by her in-laws. Finally on

11.03.2013, the complainant along with her child went to her matrimonial home to know the whereabouts of her husband on which her in-laws started beating her. The father-in-law tore apart her clothes on which she received some bruises on her breast. Thereafter, the complainant lodged the FIR in question against the petitioners/accused persons.

The petitioners got anticipatory bail in the present matter by the Ld. Sessions Judge vide order dated 16.03.2013. Thereafter, the respondent no.2 lodged a complaint in CAW Cell, Delhi against her in-laws and also filed a case under Section 125 Cr.P.C. as well as an application under Section 12 D.V. Act. On the basis of the complaint lodged by the complainant/respondent no.2, an FIR No. 85/2014 dated 11.02.2014, PS Jagat Puri under Sections 498A/406/34 IPC was registered against the petitioners. Deepak Chauhan also filed a divorce case against the respondent no.2. During the pendency of the said cases, the parties were referred to the mediation cell where 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

mediation report, the parties, i.e. respondent no. 2 and Sh. Deepak Chauhan have agreed to take divorce by way of mutual consent. It is also agreed that husband of respondent no.2/Deepak Chauhan shall make a payment of a sum of Rs.3.50 Lacs towards full and final settlement against stridhan and dowry, maintenance, towards past present and future qua this marriage in three installments. It is agreed between the parties that Deepak Chauhan and his family members shall move appropriate petitions for quashing of both the FIRs i.e. FIR in question and FIR No. 85/14, PS Jagat Puri under Section 498A/406/34 IPC before this Court and the respondent no.2 shall cooperate by giving her statement and furnishing the required documents. It is further agreed between the parties that the custody of the minor child Baby Mahima Chauhan shall continue to remain with the father/Deepak Chauhan and the respondent no.2 shall not claim visitation rights of the child. The respondent no.2 further agreed to withdraw her petition under Section 125 Cr.P.C. within a week of obtaining decree of divorce by mutual consent. Similarly, the husband/Deepak Chauhan shall withdraw the divorce petition on the date fixed i.e. 11.02.2015. Respondent No.2 affirms the contents of

the aforesaid settlement and of her affidavit dated 20.11.2015 supporting this petition. In the affidavit, the respondent no.2 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 offences under Sections 354-

A(I)/354-B IPC 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. 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.143/2013 dated 13.03.2013, under Sections 323/354-A(I)/354-B/34 IPC registered at Police Station Jagat Puri and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

FEBRUARY 05, 2016
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