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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 6th July, 2018

+ CRL. M.C. 3143/2018 & CRL.M.A. 11010/2018

DEEPAK CHAUDHARY Petitioner

Through: Ms. Bhakti Pasrija Sethi with
Mr. Moksh Pasrija & Mr.
Abhishek, Advocates.

versus

STATE & ANR Respondents

Through: Mr. Mukesh Kumar, APP for
State with ASI Kiran Sethi, P.S.
Ranjeet Nagar.
Mr. Ruchira Verma, Advocate
for-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. On 10.09.2015, the second respondent made a complaint before the Station House Officer (SHO) of Police Station Ranjit Nagar, New Delhi. Since the said complaint disclosed commission of certain acts constituting cognizable offences punishable under Sections 328/376/506 of Indian Penal Code, 1860 (IPC) within the meaning of Section 154 of the Code of Criminal Procedure, 1973 (Cr.P.C.), First Information Report (FIR) no. 596/2015 was registered thereupon. In the said FIR, the petitioner herein was referred to as the perpetrator of the said offences committed during the period 08.08.2006 to 24.11.2014, commencing from the time when the first informant (the

second respondent) was a girl aged 17 years. It appears that the parties later entered into certain ceremonies of marriage but they having fallen apart, they went ahead to dissolve the said marital union by approaching the Family Court.

2. The petitioner has come up with the petition at hand invoking the jurisdiction of this Court under Section 482 Cr.P.C. to pray for quashing of the FIR on the ground, *inter alia*, that the parties have since settled all their disputes with each other.

3. The State has opposed the prayer for quashing, placing reliance primarily on the judgment of the Supreme court in *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641.

4. Submissions of all sides have been heard against the backdrop of the facts in the criminal case arising out of the afore-mentioned FIR, charge-sheet statedly having already been filed.

5. In *State of Karnataka Vs. M. Devendrappa*, (2002) 3 SCC 89, a bench of three Hon'ble Judges of the Supreme Court had examined the width and scope of the jurisdiction of the High Court for bringing to an end a criminal action by quashing the case, *inter alia*, under Section 482 Cr.P.C., in light of past precedents and observed that such jurisdiction emanated from its inherent power to bring about justice, explaining it thus:-

“6. ... It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down

any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice....”

(emphasis supplied)

5. In *Gian Singh vs. State of Punjab and Another*, (2012) 10 SCC 303, while dealing with identical issues, another bench of three Hon'ble Judges of the Supreme Court observed thus :-

“55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

(emphasis supplied)

6. Pertinent to note, in *Gian Singh* (supra), the Supreme Court held as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or

FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society.

(emphasis supplied)

7. In the fact situation at hand, the following observations of the Supreme Court in *State of Madhya Pradesh vs. Madan Lal*, (2015) 7 SCC 681, provide further guidance:-

“18. ... We would like to clearly state that in a case of rape or attempt to rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are the offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the “purest treasure”, is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of

spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error.”

(emphasis supplied)

8. In *Parbatbhai Aahir* (supra), a Bench of three Hon’ble Judges of the Supreme Court has reiterated the law laying down the broad principles to be followed in petitions of this kind as under:-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6 In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned.

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences

involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance”.

9. A similar view was taken by this Court in *Rupesh Ranjan v. State & Anr.* in 2017 SCC Online Del 8543 decided on 23.05.2017.

10. In view of the above, this Court is of the opinion that having regard to the nature of the offences involved, it would not be appropriate to exercise the extraordinary jurisdiction under Section 482 Cr.P.C. to quash the proceedings arising out of the aforementioned FIR.

11. The petition and the pending application are dismissed.

R.K.GAUBA, J.

JULY6, 2018

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