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

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Judgment delivered on: 13.07.2018

+ CRL.M.C. 4923/2014 & CRL.M.A. 16880/2014, 14173/2017 & 6493/2018

SABINDER KAUR & ORS Petitioners

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

+ CRL.M.C. 1800/2018

MANPREET SINGH & ORS Petitioners

versus

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

+ CRL.M.C. 1805/2018

MANPREET SINGH & ORS Petitioners

versus

THE STATE & ORS (GOVT. OF NCT OF DELHI) Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. A.K.Vali and Mr.Tuhin, Advs. in Crl.M.C.4923/2014
Mr.Mahavir Sharma and Mr.Kanwarpreet Singh, Advs. in Crl.M.C.1800/2018 & 1805/2018.

For the Respondent: Mr.Raghuvinder Verma, APP for State with SI Chote Lal, P.S.Punjabi Bagh.
Mr.Mahavir Sharma and Mr.Kanwarpreet Singh, Advs for R-2 in Crl.M.C.4923/2014.
Mr.A.K.Vali and Mr.Tuhin, Advs. for R-3 in Crl.M.C.1800/2018 and R-2 in Crl.M.C.1805/2018.

CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT
13.07.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.6436/2018 (exemption)

Crl.M.A.6444/2018 (exemption)

Exemption is allowed subject to all just exceptions.

CRL.M.C. 4923/2014 & CRL.M.A. 16880/2014, 14173/2017 & 6493/2018; Crl.M.C.1800/2018 & Crl.M.C.1805/2018

1. Learned counsel for the petitioner-Sh.Manpreet Singh-submits that on account of urgent work, he had to travel out of India. He prays for exemption of Manpreet Singh from personal appearance.
2. Affidavit in support of the petition has been filed by Manpreet Singh and he is represented by his father. In view of the above, exemption from personal appearance is granted to the petitioner-Shri Manpreet Singh.
3. Petitioners in Crl.M.C.4923/2014 seek quashing of complaint case No.654/1/2012 under Section 341/436/506/34 IPC as well as the summoning order dated 31.07.2014 summoning the petitioners for an offence under Section 341/436/506/34 IPC.
4. Petitioners in Crl.M.C.1800/2018 seek quashing of FIR No.53/2012 under Section 498A/406/34 IPC, Police Station: Crime

(Women) Cell.

5. Petitioners in Crl.M.C 1805/2018 seek quashing of FIR No.273/2012 under Sections 353/186/323/34 IPC police Station: Punjabi Bagh, Delhi, based on a settlement.

6. The complaint case and FIRs are cross cases and emanate out of matrimonial discord.

7. Petitioners in Crl.M.C.4923/2014 are the wife and her family members and petitioners in Crl.M.C.1800/2018 & 1805/2018 are the husband and his family.

8. Learned counsels for the parties submit that the parties have settled their disputes and have amicably dissolved their marriage by mutual consent and decree of divorce dated 09.09.2013 has been passed. It is further submitted on behalf of the parties that parties had entered into the settlement before the Delhi Mediation Centre, Dwarka Courts, New Delhi on 18.02.2013.

9. As per the settlement, a total sum of Rs. 15,50,000/- was agreed to be paid to the wife - respondent no. 2. Rs. 10,00,000/- has already been paid to her. Balance amount of Rs.5,50,000/- has been paid today in Court by way of Demand Draft Nos.667295 & 667296 dated 12.07.2018 drawn on Citibank.

10. Respondent no. 2 – wife is present in court in person,

represented by counsel and is identified by the Investigating Officer. She confirms that she has received the entire sum of Rs. 15,50,000/- from the petitioners.

11. The complainants in the complaint case and the respective FIRs submit that they have settled all their disputes and are agreeable to the settlement and do not wish to press the criminal charges against the petitioners any further.

12. In FIR No.273/2012 there are allegations that the petitioners had obstructed the Investigating Officer in performance of her duties and had quarrelled with her and had done “*Dhaka Mukki*” (buffeted her). As per the IO she was buffeted when she had entered the premises for the purposes of recovery of dowry articles. Accordingly, FIR has also been registered under section 186 Cr.P.C.

13. Insofar as the offence under Section 186 Cr. P.C. is concerned, the punishment prescribed for the said offence is three months or fine which may extend to Rs.500/-, or both.

14. The Supreme Court in *Gian Singh vs. State of Punjab*: (2012) 10 SCC 303, held as under:-

“48. A five-Judge Bench of the Punjab and Haryana High Court in Kulwinder Singh v. State of Punjab [(2007) 4 CTC 769] was called upon to determine, inter alia, the question whether the High Court has the power under Section 482 of the Code to

quash the criminal proceedings or allow the compounding of the offences in the cases which have been specified as non-compoundable offences under the provisions of Section 320 of the Code. The five-Judge Bench referred to quite a few decisions of this Court including the decisions in Madhu Limaye [(1977) 4 SCC 551 : 1978 SCC (Cri) 10], Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], L. Muniswamy [(1977) 2 SCC 699 : 1977 SCC (Cri) 404], Simrikhia [(1990) 2 SCC 437 : 1990 SCC (Cri) 327] , B.S. Joshi [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] and Ram Lal [(1999) 2 SCC 213 : 1999 SCC (Cri) 123] and framed the following guidelines: (Kulwinder Singh case[(2007) 4 CTC 769] , CTC pp. 783-84, para 21)

- “21. ... ‘(a) Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.
- (b) Cases pertaining to property disputes between close relations, which are predominantly civil in nature and they have a genuine or belaboured dimension of criminal liability. Notwithstanding a touch of criminal liability, the settlement would bring lasting peace and harmony to larger number of people.
- (c) Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim.
- (d) Minor offences as under Section 279 IPC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet

another offence which remains non-compoundable is Section 506(II) IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148 IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act 17 of 1999 (Section 3) has made Sections 506(II) IPC, 147 IPC and 148 IPC compoundable offences by amending the schedule under Section 320 CrPC.

- (e) The offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by public servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter VII (relating to army, navy and air force) must remain non-compoundable.*
- (f) That as a broad guideline the offences against human body other than murder and culpable homicide may be permitted to be compounded when the court is in the position to record a finding that the settlement between the parties is voluntary and fair.*

While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution.'

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the court to exercise its power under Section 482 CrPC. The only principle that can be laid down is the one which has been incorporated in the section itself i.e. 'to prevent abuse of the process of any court' or 'to secure the ends of justice'."

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special

statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

15. The proceedings are offshoot of a matrimonial discord. The petitioners who are present in person regret their conduct and express remorse and have submitted that the said offence happened in the heat of the moment as at that point of time relations between the parties were very strained. Now parties have settled their disputes and have prayed that the subject FIR be quashed qua the said offence also.

16. Learned APP further informs that in the above referred complaint case, i.e. 654/1/2012, IO has also been arrayed as an

accused and has been summoned by the Court. He prays that since the entire proceedings are being quashed, the proceedings be also quashed qua her.

17. In my view, since disputes emanate out of a matrimonial discord and the parties have settled their disputes, no fruitful purpose would be served in continuing with the proceedings. Continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. Insofar as the allegations with regard to commission of an offence under Section 186 are concerned, I am of the view that the said offence alleged to have been committed is really an offshoot of the main dispute between the petitioners and the respondent No.2. Ends of justice would be served, in case, the petitioners are directed to deposit cost for the time spent in the investigation by the police offices.

18. In view of the above, (i) complaint case No.654/1/2012 under Section 341/436/506/34 IPC as well as the summoning order dated 31.07.2014 summoning the petitioners for an offence under Section 341/436/506/34 IPC, (ii) FIR No.53/2012 under Section 498A/406/34 IPC, Police Station: Crime (Women) Cell and (iii) FIR No.273/2012 under Sections 353/186/323/34 IPC police Station: Punjabi Bagh, Delhi and all consequent proceedings emanating there from are

quashed against the petitioners as also against the IO SI Adithi Lily (Now Inspector Adithi Lily) subject to consolidated cost of Rs.20,000/- to be paid by the petitioners in Crl.M.C.1805/2018 to the *Delhi High Court Bar Association Employees Welfare Fund* within a period of three weeks. The receipt of deposit of the costs imposed by this Order be furnished to the concerned Investigating Officer within a period of four weeks from today.

19. Petitions are disposed of in the above terms.
20. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

JULY 13, 2018

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