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

***Decided on:- 23<sup>rd</sup> July, 2019***

+ CRL.M.C. 613/2019

LALIT BHOLA & ORS. .... Petitioners

Through: Mr. Girik Tolani, Advocate with  
Mr. Mayank Kaushik, Advocate

versus

STATE & ANR. .... Respondents

Through: Ms. Meenakshi Chauhan, APP for the  
State with SI Anurag Tyagi, PS Sarai  
Rohilla  
Mr. Subhash Verma, Advocate with  
Mr. Puneet Maheshwari, Advocate for  
R-2

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER (ORAL)**

1. The second respondent was married to the first petitioner as per Hindu rites and ceremonies on 14.04.2007. From out of the said wedlock, a girl child named Jhalak took birth on 10.11.2008. The marriage ran into rough weather, the second respondent raised allegations of she having been subjected to cruelty and deprived of her *stridhan*, first information report (FIR) no.43/2014 having been registered on 16.01.2014 by police station Sarai Rohilla on her complaint involving offences punishable under Sections 498-A/406/34 of Indian Penal Code, 1860 (IPC), the case being directed against her husband (first petitioner), his father (second petitioner), and his sister

(third petitioner). On conclusion of the investigation, police filed report (chargesheet) under Section 173 of the Code of Criminal Procedure, 1973 (Cr. PC) on which cognizance was taken, the said matter being pending on the file of the Metropolitan Magistrate.

2. It appears that the parties came to be involved in a number of cases including in the court of Metropolitan Magistrate and family court. They, however, entered into a settlement and jointly executed a memorandum of understanding (MOU) dated 16.07.2018 whereunder the first petitioner has to pay and the second respondent is to receive a total amount of Rs.45 lacs for satisfaction of her entire claim on account of maintenance, dowry articles, *stridhan*, etc., the maintenance inclusive that of the minor child whose custody has been given to her.

3. The petition, thus, has been moved before this court invoking its inherent power and jurisdiction under section 482 Cr. PC seeking quashing of the FIR No.43/2014, under Sections 498A/406/34 IPC of Police Station Sarai Rohilla.

4. The second respondent on being served with the notice pursuant to the directions has filed affidavit sworn by her on 20.07.2019 which was filed on record on the same day. Since said affidavit was found to be cryptic, it not indicating compliance with the various terms of the MOU, the matter was passed over so that a fresh affidavit could be sworn and brought on record. The matter is again taken up in post-lunch session. During the interregnum, the second respondent has sworn another affidavit which has been submitted in the registry and

has been called for. By this affidavit, and orally through the counsel at the hearing, the second respondent confirms the settlement as mentioned above on the basis of which prayer for quashing is made. It is confirmed by the second respondent that certain other cases involving the parties have come to an end, her petition under section 12 of Protection of Women from Domestic Violence Act, 2005 having been withdrawn, the criminal miscellaneous petition challenging the interim order having been also dismissed as withdrawn, cases arising out of the three other FIRs having been quashed. It is also confirmed by the second respondent that the marriage of the parties has since been dissolved by petition filed by mutual consent, the divorce decree having been granted by the family court on 07.12.2018 in HMA Petition No.1680/2014. The second respondent has further confirmed by the fresh affidavit that she has already received total sum of Rs.35 lacs from the first petitioner.

5. At the hearing, the first petitioner handed over to the second respondent two demand drafts each in the sum of Rs.5 lacs, bearing nos.370815 and 370818, dated 22.07.2019, issued by Central Bank of India, Shahdara Branch. The demand drafts have been received by the second respondent against proper acknowledgement. She has also submitted copy of her *adhar card* as the proof of her identity.

6. Pertinent to note here that offence under Section 498A IPC is not compoundable. The parties are constrained to move this court for quashing on the basis of amicable resolution arrived at by them in the facts and circumstances noted above.

7. The scope and ambit of the power conferred on this court by Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) read with Articles 226 and 227 of the Constitution of India, in the particular context of prayer for quashing criminal proceedings, has been the subject matter of scrutiny and comment by the Supreme Court in a catena of judgments. It is well settled that in exercise of this “inherent” and “wholesome power”, the touchstone is as to whether “the ends of justice so require”. This court had the occasion to trace the relevant law on the subject in a batch of matters led by *Yashpal Chaudhrani vs. State (Govt. of NCT Delhi)*, 2019 SCC Online Del 8179 wherein after taking note, *inter alia*, of *State of Karnataka v. L. Muniswamy*, (1977) 2 SCC 699; *State of Karnataka v. M. Devendrappa*, (2002) 3 SCC 89; *B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675; *Gian Singh Vs. State of Punjab and Anr.* (2012) 10 SCC 303; *Jitendra Raghuvanshi v. Babita Raghuvanshi*, (2013) 4 SCC 58; *K Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226; *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466; *State of Rajasthan v. Shambhu Kewat*, (2014) 4 SCC 149; *Parbhatbhai Aahir Parbatbhai Bhimsinhbhai Kurmur*, (2017) 9 SCC 641 and *State of Madhya Pradesh v. Laxmi Narayan and others*, (2019) 5 SCC 688; the broad principles were culled out as under :-

“55. Though the above-noted authoritative pronouncements of the Supreme Court have consistently laid down the broad principles governing the exercise of power of the High Court under Section 482 of the Cr. PC for bringing an end to the criminal process, for addressing the concerns noted at the

*outset and future guidance of trial courts, some of the crucial ones may be flagged as under:—*

*(i). The inherent jurisdiction vested in the High Court, as recognized and preserved by Section 482 Cr. PC, is primarily to “prevent abuse of the process of court” or to “otherwise secure the ends of justice”.*

*(ii). The ends of justice are higher than the ends of mere law, the prime principle governing the exercise of inherent power being “to do real, complete and substantial justice” for which the court exists.*

*(iii) It is the duty of the court to give “adequate treatment to the settlement between the parties” particularly in cases involving compoundable offences, the exercise of inherent power of the High Court under Section 482 Cr.P.C., however, not being inhibited in case of non-compoundable offences though, for the latter category, such power is to be “exercised sparingly and with caution”.*

*(iv). If the criminal case has “overwhelmingly and predominantly civil character”, particularly if it arises out of “commercial” (financial, mercantile, partnership or such other) transaction - and this would include the “cheque bouncing cases” under Section 138 N.I. Act - or “matrimonial dispute” or “family dispute”, genuine resolution on equitable terms, in entirety, by the parties should result in criminal proceedings being quashed.*

*(v). Since the institution of marriage has an important role to play in the society, the court is to*

*make every effort to encourage the parties to terminate such discord amicably and if it appears that elements of settlement exist, and the parties are willing, they are to be directed to the process of mediation to explore the possibility of settlement, it being desirable to do so even at the “pre-litigation stage”.*

*(vi). While examining the prayer for quashing of a non compoundable offence, on the basis of settlement of the dispute between the wrongful doer and the victim, the High Court is to bear in mind as to whether the possibility of conviction is “remote and oblique” and further, if the continuation of the criminal case would lead to “oppression and prejudice” or “extreme injustice” for the accused.*

*(vii). The considerations which would weigh with Court include the antecedents of the accused, possible lack of bona fides, his past conduct and that includes the question as to whether he had earlier absconded and as to how he had managed with the complainant to enter into a compromise.*

*(viii). But, the High Court, when called upon to exercise the power under Section 482 Cr. PC to bring the criminal case to an end on the basis of settlement, must steer clear of intervention in “heinous” or “serious” offences, including those involving “mental depravity”, as indeed “economic offences” affecting “the financial and economic well being of the State”, such as murder, attempt to murder, extortion, forgery, rape, dacoity, financial or economic frauds, cases under Arms Act, etc., the reason being that such offences*

*are “not private in nature” but have “a serious impact upon society”, and continuation of trial thereof is essential due to “overriding element of public interest”.*

*(ix). The court, however, is not to go by mere use of label of a serious offence (e.g. offence under Section 307 IPC), it being open to it to examine, by scrutiny of the evidence gathered, to find as to whether there are sufficient grounds to frame charge for such offence and, in this view, it being “not permissible” to intervene till the matter has been properly investigated.”*

8. In a case where criminal proceedings arise essentially out of *matrimonial* dispute and the parties have decided to bury the hatchet, the court must examine if there is any likelihood of the criminal prosecution resulting in conviction. In fact-situation wherein the matrimonial relation has been brought to an end by mutual consent and the parties are eager to move on with their respective lives seeking closure and if there is nothing to indicate lack of *bonafide* on the part of any side, denial of the prayer for quashing the criminal case would restore acrimony rather than bring about peace. Allowing continuance of the criminal action would be fruitless and clearly an abuse of judicial process.

9. The case at hand passes the muster of the above-noted tests.

10. In the above facts and circumstances, the petition is allowed. The crime registered by the police vide FIR No.43/2014, under

Sections 498-A/406/34 IPC of Police Station Sarai Rohilla and the proceedings emanating therefrom against the petitioners are hereby quashed.

11. The petition and the application filed therewith are disposed of accordingly.

*Dasti* to both sides.

**JULY 23, 2019**

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**R.K.GAUBA, J.**



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