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

+ CRL.M.C. 468/2018

JAGDISH CHANDER & ORS

..... Petitioners

Through: Mr. Vikram Dua, Advocate with
petitioners in person

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondents

Through: Mr. Mukesh Kumar, APP for State
with SI Sohan Lal, P.S. Mehrauli
Mr. Mohan Kaushik, Advocate for
respondent No.2 with respondent
No.2 in person

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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30.01.2020

1. The present proceedings are instituted seeking quashing of FIR No.462/2013 under Sections 406/498A/307/506/34 IPC registered at Police Station Mehrauli, Delhi on the ground that parties have settled their disputes.
2. Learned counsel for the petitioners submit that as per the prosecution case, the present FIR has been filed by respondent No.2 against the present petitioners, who used to harass her for dowry. Petitioners No. 1, 2 and 4 also caught hold of respondent No. 2 and administered phenyl. The parties are related to each other as the petitioner nos.1 and 2 are the father-in-law and mother-in-law of respondent no.2. The petitioner nos. 3 to 5 are the sisters-in-law of respondent no.2.

Respondent no.2 is living with her husband (son of petitioner nos. 1 and 2).

3. Learned APP for the State submits that the charge sheet in the present case has been filed under the aforesaid sections against the petitioners and respondent No.2 is the only complainant/victim.

4. In the case of Narinder Singh and Ors. v. State of Punjab and Ors., reported as **2014 CriL J 2436**, the Supreme Court held as under:

“31(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At

this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.”

5. Subsequently, in the case of Yogendra Yadav & Ors. v. The State of Jharkhand & Anr reported as **(2014) 9 SCC 653**, while placing reliance on the decision of Gian Singh v. State of Punjab reported as **(2012) 10 SCC 303**, the Supreme Court in a case involving offence under Sections 323, 324, 341 as well as Sections 326 & 307 read with Section 34 IPC held as under:

“4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh vs. State of Punjab). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceeding will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed

it may send wrong signal to the society. However, when 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, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

6. Recently, in The State of Madhya Pradesh v. Laxmi Narayan and Ors. reported as **(2019) 5 SCC 403**, while reaffirming the view laid down in Narinder Singh (supra), the supreme Court held as under:

“13 (iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 PC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the

nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove”.

7. Learned counsels for the parties submit that they have entered into a settlement vide Memorandum of Understanding dated 22.11.2017. A copy of the same is annexed with the petition as Annexure-P5. In terms of the settlement, Rs.20,000/- has already been paid to respondent No.2 and the remaining amount of Rs.1,80,000/- has been handed over in Court today to respondent No.2 by way of a cheque bearing No.000024 dated NIL drawn on Kotak Mahindra Bank. In terms of the settlement, respondent No. 2 is now left with no claim whatsoever against the petitioners.

8. Learned counsel for the petitioners, on instructions, assures and undertakes that the said cheque will be honoured on presentation.

9. The petitioners and respondent No.2, who are present in person, are identified by their respective counsels and the Investigating Officer.

10. Respondent No. 2, who is present in Court, states that she has entered into the settlement agreement with her own free will, volition and without

any coercion. She further states that she has no objection if the present FIR and consequent proceedings are quashed.

11. The parties are bound by the statements made in Court today.

12. Learned counsels for the parties submit that besides the present FIR there are three connected FIR's, FIR No.189/2013 registered under Sections 323/325/34 IPC at P.S. Mehrauli, FIR No.447/2013 registered under Sections 436/323/435/34 IPC at P.S. Mehrauli and FIR No.1370/2016 under Sections 420/468/471/34 IPC registered at P.S. Mehrauli, which have also been settled vide Memorandum of Understanding dated 22.11.2017.

13. In the present case, as per the MLC of respondent no.2, she was found conscious and oriented. The smell of phenyl was found present, however, neither any gastric wash was taken nor any bottle of phenyl was seized. No further evidence has come on record as to whether the respondent no. 2 was even hospitalised. It appears that the present FIR was lodged by respondent no.2 against the family members of Khem Singh (husband of respondent no.2) on account of family disputes.

14. In view of the above and the fact that the parties have amicably settled all of their disputes and the other FIRs pending between the parties are also settled/quashed (FIR No. 189/2013 P.S. Mehrauli has also been quashed today by a separate order), no useful purpose will be served in continuance of the criminal proceedings against the petitioners. It is accordingly directed that the aforesaid FIR and the consequent proceedings arising therefrom are hereby quashed.

15. With the above directions, the petition is disposed of.
16. Order *dasti* to the learned counsels for the parties.

MANOJ KUMAR OHRI, J

JANUARY 30, 2020/na