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

+ CRL.M.C. 2475/2019

PARVESH & ORS.

..... Petitioners

Through: Mr.Sanjeev Chhikara and Mr.Sumit Gaur, advts. with petitioners in person.

versus

THE STATE & ANR.

..... Respondent

Through: Mr.Amit Sahni, APP for the State.
SI Neeraj, PS Vijay Vihar
Mr.Anuj Jain and Mr.Akash Gupta,
Adv. for R-2.

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Date of Decision: 05.12.2022.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed quashing FIR No.1319/2014 under Sections 498A/406/34 IPC registered PS Vijay Vihar.
2. Brief facts leading to the present petition are that petitioner no. 1 and respondent no. 2 were married to each other on 01.12.2010 according to Hindu rites and ceremonies. Out of this wedlock, one female child Lipika was born. However, due to matrimonial discord, some misunderstanding took place between Petitioner No. 1 and Respondent No. 2. Owing to misunderstanding and temperamental differences, both

Respondent No.2 and Petitioner No. 1 started living separately from 01.06.2014.

3. Respondent No.2 made a complaint in Crime Against Women Cell against the petitioner no. 1 and his family members, which later culminated into above mentioned FIR No.1319/2014 under Sections 498A/406/34 IPC registered PS Vijay Vihar.
4. The present petition has been filed on the ground that the parties have arrived at a compromise at the Counseling Cell, Rohini Courts, Delhi. It has been stated that parties amicably resolved the disputes of their own free will and volition, without any pressure, coercion, undue influence or duress of any nature. Pursuant to the settlement, the parties have already been granted the decree of divorce passed u/s 13B(2) dated 06.03.2019.
5. However, it is pertinent to mention here that the said compromise deed was rejected by this Court vide order dated 21.08.2019 on the ground that the said agreement did not contain any provision to watch the interest of the minor child Miss Lipika and the matter was referred to the Delhi High Court Mediation and Conciliation Centre so that the parties could again workout the terms which are proper for taking care of the best interest of the child.
6. The parties have now arrived at a new settlement and the settlement agreement dated 17.02.2020 has been placed before the Court.
7. In terms of the new settlement agreement dated 17.02.2020, the petitioners have agreed to pay a sum of Rs.18,00,000/- to respondent no.2 towards a full and final settlement of all her claims towards past, present and future alimony, istridhan, maintenance, articles of dowry or

any other pending claims. For the minor child Miss Lipika, petitioner no. 1 has paid an additional sum of Rs.1 lakh to respondent no.2. In the settlement dated 17.02.2020, it has been agreed between the parties that respondent no. 2 will contribute a sum of Rs.4,00,000/- and an FDR in the sum of Rs.5,00,000/- will be made with a nationalised bank maturing on 01.02.2031 in the name of minor child Ms.Lipika and respondent no.2 i.e. the mother. It has been agreed that respondent no. 2 shall supply the copy of the FDR prepared in the name of Ms.Lipika to petitioner no.1.

8. The parties have appeared before this court and have duly been identified by the IO. The statement of respondent no. 2/complainant has been recorded separately wherein she has confirmed the terms of the settlement and has undertaken to fulfil the terms agreed. She has further stated that she has no objection if FIR No. 1319/2014 registered at P.S. Vijay Vihar under section 498A/406/34 IPC and all other proceedings emanating therefrom are quashed.
9. Let the settlement agreement dated 17.02.2020 be taken on record.
10. The divorce of the parties has already been taken place vide order dated 06.03.2018 by a mutual decree of divorce.
11. An offence under section 498A of IPC is non-compoundable. It is well settled that the High Court while exercising powers under Section 482, Cr.P.C., can quash offences which are non-compoundable on the ground that there is a compromise between the accused and the complainant. In *Narinder Singh & Ors. V. State of Punjab & Anr.*(2014) 6 SCC 466, the Apex Court has laid down parameters and guidelines for High Courts exercising jurisdiction under Section 482

for quashing proceedings on the ground of settlement. The Supreme Court has observed 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.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

12. Similarly, in ***Parbatbhai Aahir & Ors v. State of Gujarat & Anr.*** (2017) 9 SCC 641, the Supreme Court has observed 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 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 insofar 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."

13. Keeping in view the aforesaid principle and the nature of the dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no useful purpose would be served by keeping the dispute alive and continuance of the proceedings would amount to an

abuse of the process of Court. I am of the considered opinion that it is a fit case where discretionary jurisdiction can be exercised and the proceedings are quashed.

14. Thus, keeping in mind the nature of the allegations, the settlement between the parties, pre-existing relationship between the parties and the law laid down by the Supreme Court, FIR No. 1319/2014 registered at P.S. Vijay Vihar under section 498A/406/34 IPC and all other proceedings emanating therefrom are quashed.
15. However, it is made clear that this settlement shall in no way take away the rights of minor child Lipika and she shall be at liberty to pursue her rights in accordance with the law.
16. The petition stands disposed of.

DINESH KUMAR SHARMA, J

DECEMBER 05, 2022/rb

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