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

+ CRL.M.C. 3812/2022

VICKY SINGH

..... Petitioner

Through: Ms. Tanya Agarwal, DHCLSC

versus

STATE (GOVT. OF NCT OF DELHI) AND ANR..... Respondents

Through: Mr. Hemant Mehla, APP for the State
with ASI Devender KumarPS Sabji
Mandi

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Date of Decision: 13th December, 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 under Section 482 of Cr.P.C. for quashing of FIR No. 216/2019 lodged at PS Subzi Mandi, under Sections 489-A/406/34 IPC.
2. Facts, in brief, are that Petitioner No.1-Vicky Singh and respondent No. 2/complainant Dolly got married on 23.01.2019 according to Hindu rites and customs. A child namely Ritisha Singh was born out of this wedlock. Thereafter marital differences cropped up between the parties and the parties started living separately from April 2019. Subsequently,

respondent No.2 lodged the complaint against the petitioners in the Crime Against Women Cell, Delhi and F.I.R. No. 216/2019, under section 498-A/406/34 I.P.C. was registered at P.S. Subzi Mandi, Delhi .

3. Learned Counsel for the petitioner submits that pursuant to the intervention of respectable persons and well-wishers, the matrimonial disputes and differences between both the parties were resolved. It has been submitted that the settlement deed dated 2^{1st} July, 2022 executed between the parties wherein it has been agreed that petitioner No.1 and respondent No.2 will be living together peacefully with their minor child namely Ritisha Singh. It has been submitted that in view of the settlement arrived at between the parties the above mentioned FIR is liable to be quashed.
4. The High Court is the highest court of the State and is conferred with the power of control and superintendence over all courts subordinate to it. Besides Articles 226 and 227, Section 482 CrPC also acknowledges the inherent power of the high court. The scope of Section 482 provides for extraordinary powers to the High Court and these powers could be exercised to prevent abuse of the court process or to secure justice. In cases where the offences are not computable in nature, the parties on account of an amicable settlement invoke the inherent power under Section 482 Cr.P.C. for quashing the proceedings on the plea that continuance thereof would merely be an abuse of process of law. Thus, the powers possessed by the High Courts under section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The object behind the exercise of such power should be to do real and substantial justice for the administration of which the

courts exist.

5. In ***B.S.Joshi vs. State of Haryana*** (2003) 4 SCC 675, the Supreme Court examined the scope and ambit of the power as conferred under Section 482 Cr.P.C. and Articles 226 and 227 of the Constitution of India. The Supreme Court was dealing with a criminal case arising out of marital discord and held that in the exercise of this “inherent” and “wholesome power”, the touchstone is as to whether “the ends of justice so require”. It was observed thus:

“10. ... that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. ...that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”

It was further noted:

“What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been

dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has to be in the “negative”. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.”

6. In ***Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another***, 2019 SCC OnLine Del 8179, this court while dealing with a case of a matrimonial dispute, placed reliance on ***Jitendra Raghuvanshi v. Babita Raghuvanshi***, (2013) 4 SCC 58 and *inter alia* held as under:

49. *The above views in the context of matrimonial disputes resulting in criminal proceedings have been consistently followed over the years, as may be further illustrated by the decision of a bench of three Hon'ble Judges of the Supreme Court in **Jitendra Raghuvanshi v. Babita Raghuvanshi**, (2013) 4 SCC 58, the following observations summarising the philosophy succinctly:—*

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place

and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed...”

7. Similarly, the Supreme Court in the case of **K. Srinivas Rao v. D.A. Deepa**, (2013) 5 SCC 226 has *inter alia* held as under;

“39. Quite often, the cause of the misunderstanding in a matrimonial dispute is trivial and can be sorted out. Mediation as a method of alternative dispute resolution has got legal recognition now. We have referred several matrimonial disputes to mediation centres...”

44. We, therefore, feel that though offence punishable under Section 498-A IPC is not compoundable, in appropriate cases if the parties are willing and if it appears to the criminal court that there exist elements of settlement, it should direct the parties to explore the possibility of settlement through mediation. This is, obviously, not to dilute the rigour, efficacy and purport of Section 498-A IPC, but to locate cases where the matrimonial dispute can be nipped in bud in an equitable manner. The Judges, with their expertise, must ensure that this exercise does not lead to the erring spouse using mediation process to get out of clutches of the law. During mediation, the parties can either decide to part company on mutually agreed terms or they may decide to patch up and stay together. In either case for the settlement to come through, the complaint will have to be quashed. In that event, they can approach the High Court and get the complaint quashed. If,

however, they choose not to settle, they can proceed with the complaint. In this exercise, there is no loss to anyone. If there is settlement, the parties will be saved from the trials and tribulations of a criminal case and that will reduce the burden on the courts which will be in the larger public interest. Obviously, the High Court will quash the complaint only if after considering all circumstances it finds the settlement to be equitable and genuine. Such a course, in our opinion, will be beneficial to those who genuinely want to accord a quietus to their matrimonial disputes.

46. We, therefore, issue directions, which the courts dealing with the matrimonial matters shall follow.

46.2. The criminal courts dealing with the complaint under Section 498-A IPC should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation centre if they feel that there exist elements of settlement and both the parties are willing. However, they should take care to see that in this exercise, rigour, purport and efficacy of Section 498-A IPC is not diluted. Needless to say that the discretion to grant or not to grant bail is not in any way curtailed by this direction. It will be for the court concerned to work out the modalities taking into consideration the facts of each case.

46.3. All mediation centres shall set up pre-litigation desks/clinics; give them wide publicity and make efforts to settle matrimonial disputes at pre-litigation stage.”

8. Today, parties are present in the Court and have been duly identified by the Investigating Officer. They have stated that pursuant to the settlement agreement, they are living together and no dispute is pending between them. Respondent No.2/complainant has also stated that she has settled all her matrimonial disputes with the petitioners out of her own free will, without pressure, coercion or undue influence and does not

want to pursue the present case any further and requests that the present FIR and the proceeding emanating therefrom may be quashed.

9. It is pertinent to mention that the apex court and this court have repeatedly encouraged genuine settlement of marital disputes.
10. Since the parties have amicably settled their matrimonial disputes. This Court considers that it would be in the interest of justice and social harmony that parties live together .In view of the settlement deed dated 21st July, 2022, the case FIR No. 216/2019 lodged at PS Subzi Mandi, under Sections 489-A/406/34 IPC and all the proceedings emanating therefrom are quashed.
11. The present petition stands disposed of.

DINESH KUMAR SHARMA, J

DECEMBER 13, 2022

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