



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

+ **CRL.M.C. 5922/2019**

Date of Decision: 21.02.2022

IN THE MATTER OF:

RUPESH KUMAR

..... Petitioner

Through: Mr. Rajnish Ranjan, Advocate

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Meenakshi Chauhan, APP for
the State with the I.O.
Respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. on behalf of the petitioner seeking quashing of FIR No.190/2018 registered under Section 376 IPC and Section 4 of the Dowry Prohibition Act, 1961 (hereinafter, referred to as the '*DP Act*') at P.S. Nabi Karim, Delhi, on the basis of a compromise having been arrived at between the parties.

2. Vide order dated 21.11.2019, notice was directed to be issued to respondent No.2.

3. As per the prosecution case, respondent No.2/complainant has alleged that the petitioner had established physical relations with her on the pretext of marriage. According to the allegations levelled, respondent



No.2 had met the petitioner through a matrimonial website. One day, she was called by him to a hotel, where he established physical relations with her despite her refusal. As their marriage was to take place in some time, respondent No.2 did not report the incident. Thereafter, physical relations were again established between the parties. Later, when the parents of respondent No.2 went to the petitioner's native place for the engagement ceremony, a demand for dowry was raised by the petitioner's father. When respondent No.2 tried to take up the issue with the petitioner, he initially avoided her, and subsequently, refused to marry.

4. Mr. Rajnish Ranjan, learned counsel for the petitioner, has contended that the present FIR was registered on account of a misunderstanding, as the petitioner initially failed to keep his promise of marriage. However, subsequently, the parties, who are educated and were major even at the relevant time, entered into a compromise and their misunderstanding was fully resolved. It is informed that the petitioner was released on regular bail vide order dated 25.07.2018 passed by the Special Court and he married respondent No. 2 on 01.10.2018.

Reliance is placed by the learned counsel on the Certificate of Marriage dated 01.10.2018 issued in respect of the petitioner and respondent No.2 by the Office of District Magistrate, South-West District, Dwarka, Delhi, which is annexed to the petition as *Annexure P-3*. Reference is also made to the testimony of respondent No.2 recorded during trial, as per which she had married the petitioner in the Office of SDM by way of Special Marriage on 01.10.2018 and has no grievance against him.

5. Learned counsel has urged that since 01.10.2018, the parties are happily living together as husband and wife in *Muzaffarpur, Bihar*. He,
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on instructions, further submits that the parties were blessed with a child on 24.12.2019. Under these facts and circumstances, it is prayed that in best interests of the child, as well as to prevent adverse impact on the married life of the parties, the FIR as well as the consequent proceedings may be quashed.

6. Learned APP for the State, on the other hand, has vehemently opposed the prayer made in the petition, on the basis of compromise. While referring to the Status Report dated 31.12.2019, she submits that after completion of investigation, the charge sheet in the case has been filed under Section 376 IPC and Section 4 of the DP Act. It is contended that the FIR cannot be quashed only because the parties have settled their disputes, because the offence is not private in nature and has a serious impact on the society. She, however, on instructions, confirms that the petitioner and respondent No.2 are now married to each other and have been blessed with a child.

7. I have heard learned counsels for the parties and also perused the material placed on record.

8. There is no gainsaying that the scope of powers conferred on this Court under Section 482 Cr.P.C. is very wide. Distinct from the power conferred under Section 320 Cr.P.C. to permit compounding of certain offences, the power under Section 482 Cr.P.C. is ordinarily exercised with a view to prevent the abuse of process of any Court or to secure the ends of justice, and can even extend to cases involving non-compoundable offences.



9. In Gian Singh v. State of Punjab and Another reported as (2012) 10 SCC 303, the Supreme Court has delineated the scope of inherent powers of this Court under Section 482 Cr.P.C. in the following manner:-

“61. The position that emerges from the above discussion can be summarized thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court....”

(emphasis added)

10. Even though of wide plenitude, it is well settled that the power under Section 482 Cr.P.C. is not unrestricted. The same has to be exercised cautiously and sparingly, keeping in view the nature and gravity of the offence and the peculiar facts and circumstances of each case. While distinguishing the case of heinous and serious offences from other offences, for the purposes of Section 482 Cr.P.C., the Supreme Court in Gian Singh (Supra) has held:-

“61.before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society....”

11. In Shimbhu and Another v. State of Haryana reported as (2014) 13 SCC 318 and State of Madhya Pradesh v. Madanlal reported as (2015) 7 SCC 681, it has been opined by the Supreme Court that the offence of
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rape is non-compoundable in nature and the matter cannot be left to the parties to compromise and resolve, as it has serious impact on the society.

12. In Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another reported as (2017) 9 SCC 641 and State of Madhya Pradesh v. Laxmi Narayan and Others reported as (2019) 5 SCC 688, it has again been opined that the powers under Section 482 Cr.P.C. cannot be exercised by a High Court to quash cases involving heinous or serious offences, for instance the offence under Section 376 IPC.

13. Be that as it may, recently, in Ananda D.V. v. State & Ors. reported as MANU/SC/0395/2021, while dealing with a case where the FIR was registered under Sections 376/380 IPC and the parties eventually compromised and married each other, the Supreme Court took the following view:-

“4. The gravamen of the allegations in the FIR filed by the private Respondent was that the Appellant had promised her that he will marry her, which promise was not kept by the Appellant. The FIR was registered on 17.09.2013.

5. It is not in dispute that after the registration of FIR, the parties were able to resolve their differences and eventually got married on 11.10.2014. The Appellant as well as private Respondent represented by Ms. Meenakshi Arora, learned senior Counsel jointly state that they are enjoying happy married life.

6. A joint request is, therefore, made on behalf of the Appellant and the private Respondent that the FIR registered on 17.09.2013 be quashed as it was the outcome of some misunderstanding between the parties.



7. *Considering the nature of allegations in the FIR and the realization of the fact that due to miscommunication FIR came to be registered at the relevant point of time which issues/misunderstanding have now been fully resolved and the parties are happily married since 11.10.2014, the basis of FIR does not survive. Rather registering such FIR was an ill-advised move on the part of the private Respondent, is the stand now taken before us. It is seen that the Appellant and private Respondent are literate and well-informed persons and have jointly opted for quashing of the stated FIR.*

8. *Taking overall view of the matter, therefore, in the interest of justice, we accede to the joint request of quashing of FIR in the peculiar facts of the present case.*

9. *Hence, these appeals must succeed. The impugned judgment and order is set aside. Instead, the Writ Petition filed by the Appellant for quashing is allowed, as a result of which, all steps taken on the basis of impugned FIR be treated as effaced from the record in law...*

14. It is observed that in exercise of power under Section 482 Cr.P.C. and considering the peculiar facts and circumstances of the case, Co-ordinate Benches of this Court have also earlier quashed FIRs registered under Section 376 IPC, pursuant to compromise having been arrived at between the parties [Refer: Bitu Yadav v. State (NCT of Delhi) and Ors. reported as **MANU/DE/1683/2020**; Ashish v. State and Another reported as **2021 SCC OnLine Del 3160** and Vikash Kumar v. State and Another reported as **2021 SCC OnLine Del 2749**].

15. In the present case, it is not disputed that since the registration of the FIR, the accused (petitioner) and complainant (respondent No.2) have gotten married. It is also not disputed that the petitioner and respondent No.2 have been blessed with a child, who at present is a minor.



16. It is worthwhile to note that during her examination in trial, respondent No.2 has stated that she had lodged the complaint under a misunderstanding, as the petitioner stopped talking to her and she, feeling cheated, assumed that he was not willing to marry her. However, thereafter, the petitioner and she got married on 01.10.2018 and now she has no grievance against him.

17. An affidavit dated 14.11.2019 sworn by respondent No.2 has been placed on record, wherein it is stated that she does want to pursue the complaint made by her and has no objection to the quashing of the FIR as well as the proceedings emanating therefrom. Today, she is present in Court and is identified by the Investigating Officer. She submits that she has entered into the aforesaid compromise out of her own free will, volition and without any coercion.

18. Keeping in view the decisions referred to hereinabove; the peculiar facts and circumstances of the case; the no-objection given by respondent No.2, and the best interests of the child born out of the wedlock between the petitioner and respondent No.2, this Court is of the opinion that ends of justice would not be justified by continuance of the criminal proceedings against the petitioner. Accordingly, it is directed that the aforesaid FIR and the consequent proceedings arising therefrom are hereby quashed.

19. The present petition is disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

FEBRUARY 21, 2022

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