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

+ **CRL.M.C. 6763/2022**

VIKAS VERMA & ANR.

..... Petitioners

Through: Ms. Anjali Nehra, Advocate.

versus

STATE & ANR. & ORS.

..... Respondents

Through: Mr. Hitesh Vali, APP for the State
with SI Navneet Yadav, PS Budh
Vihar.
Mr. Ashish Mishra Mr. Ramankant
Kashyap, Advocates for respondent
No.2.

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Date of Decision: 16th December, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 26234-35/2022 (Exemptions)

Exemptions are allowed subject to all just exceptions.

CRL.M.C. 6763/2022

1. The present petition has been filed under section 482 CrPC seeking quashing of FIR No. 0069/2021 registered at P.S. Budh Vihar under sections 406/498A/34 IPC.

2. Briefly stated the facts are that the marriage between the petitioner No. 1 (husband) and respondent No. 2 (wife) was solemnized on 14.01.2004 as per Hindu rites and customs in Delhi. Out of the wedlock, two children namely, Ms. Sanya Verma, aged 17 yrs. and Master Aarnav Verma, aged 10 yrs. were born. However, owing to temperamental differences both the parties started residing separately since January 2019. Subsequently, respondent No. 2 (wife) got registered FIR No. 0069/2021 dated 16.03.2021 under Sections 406/498A/34 IPC at P.S Budh Vihar, against the Petitioners herein.

3. It has been submitted that both the parties have now amicably resolved all their disputes vide (MoU) settlement agreement dated 17.07.2021. As per the settlement agreement dated 17.07.2021 it is settled that the parties would file for divorce by way of mutual consent, it is further agreed that the petitioner No. 1 shall pay Rs. 2,00,000/- to the respondent No. 2 against her Stridhan, dowry articles and maintenance (including her past, present and future maintenance) and shall also handover a car i.e. Swift to the respondent No. 2. It is also agreed between the parties that the custody of both the children will remain with the respondent No. 2 (wife) and if the petitioner No.1 (husband) wants to visit the children, the respondent No. 2 (wife) would not have any objection to the same. It is agreed between the parties that none of the parties will file any complaint, civil/criminal cases *qua* this marriage against each other or each other's respective families regarding the dispute of dowry, gifts, moveable and immovable properties, stridhan, permanent alimony, maintenance. It is agreed between the parties

that if any litigation regarding any dispute *qua* this marriage is found pending in any court, the same shall stand withdrawn. It is agreed between the parties that they will not defame each other in any manner. It is further agreed between the parties that they have no claim of any nature whatsoever left against each other or each other's respective families. It has been agreed between the parties that they will abide by and be bound by the agreed terms/stipulations of the settlement agreement dated 17.07.2021.

4. Pursuant to the settlement agreement dated 17.07.2021, the parties filed their first motion petition bearing HMA No. 1365/2021 u/s 13B (1), HMA, which was allowed by the learned Principal Judge, Nort-West, Family Courts, Rohini Courts, Delhi vide order dated 08.09.2021. Accordingly, the petitioner No. 1 withdrew his case filed u/s 13(1) (ia) HMA, on grounds of adultery, pending before the learned Principal Judge, Nort-West, Family Courts, Rohini Courts, Delhi. Thereafter, the parties filed their second motion mutual divorce petition u/s 13B (2), HMA bearing HMA No. 1970/2021, which too was allowed by the learned Principal Judge, Nort-West, Family Courts, Rohini Courts, Delhi, vide order dated 22.11.2021.

5. Thus, the marriage between both the parties stood dissolved by mutual consent vide divorce decree dated 22.11.2021 and as per settlement deed dated 17.07.2021 all claims and disputes between the parties also stand settled. Learned counsel for the petitioner submits that since the parties have resolved all their differences amicably, therefore, no useful purpose would be served by continuing the abovesaid FIR and proceedings emanating therefrom and seeks that the same be quashed.

6. The petitioner no. 1 (husband) and respondent No. 2 (wife) are present in person before this court and have been duly identified by the IO. The statement of Respondent No.2/ Ms. Sarika Chopra has been recorded separately wherein she has stated that she was married to petitioner No.1 namely Vikas Verma on 14.01.2004 and remained together with the petitioner till January 2019. She has stated that two children namely Ms. Sanya Verma, aged 17 years and Master Aarnav Verma, aged 10 years were born out of the wedlock. However, the marriage could not succeed and mutual divorce petition was filed and decree of divorce was granted vide order dated 22.11.2021 by the learned Principal Judge, Family Court, North-West, Rohini Courts, Delhi. She has further stated that during the divorce proceedings, she along with the petitioners have reached into a MoU/ Settlement Agreement dated 17.07.2021 before the Additional Principal Judge, family Courts, Rohini Courts, Delhi. She has stated that as per the Settlement Agreement, custody of both the children will remain with her. However, the petitioner No. 1 can visit the children as and when he wishes, and she has no objection to the same. As per the settlement her husband (petitioner No. 1) has to handover the car i.e. Swift which has already been handed over to her and has to pay a sum of Rs. 2,00,000/- towards full and final settlement of the entire dispute. She has stated that she has already received Rs.1,00,000/- at the time of recording of the Statement of the First Motion and the remaining amount of Rs. 1,00,000/- at the time of recording of the Statement of the Second Motion before the concerned Court. She has stated that she has no objection if the FIR No. 0069/2021 registered at P.S. Budh Vihar U/s 406/498A/34 IPC and all other proceedings emanating therefrom are quashed. She has stated that she is making the statement

voluntarily against all claims (past, present and future) without any fear, undue influence or coercion.

7. Thus, having considered the submissions/ voluntary statement of the respondent No. 2 (complainant) and upon perusal of the records, this Court deems it apposite to reiterate the settled principles of law with respect to exercising power conferred under 482 CrPC in matrimonial cases.

8. Articles 226 and 227 of the Constitution of India and Section 482 Cr.P.C. acknowledge the power of control and superintendence and inherent powers of the High Courts. High Courts can exercise its inherent power u/s 482 CrPC either to prevent abuse of the process of the court or otherwise to secure the ends of justice, depending upon the facts and circumstances of each case. The powers under section 482 CrPC are to be exercised with due care, caution and circumspection.

9. In **B.S. Joshi v. State of Haryana**, (2003) 4 SCC 675, the Supreme Court inter alia held as under:

“ 8. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.

10. In State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699 : 1977 SCC (Cri) 404] considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require. It was

*observed 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. This Court said 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. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. **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.

11. In Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre: [(1988) 1 SCC 692: 1988 SCC (Cri) 234] it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.

12. The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.

13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] are very apt for determining the approach required to be kept in view in a matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting

it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Penal Code, 1860 was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Penal Code, 1860.”

10. Referring to *B.S. Joshi (supra)*, the Supreme Court in *Bitan Sengupta v. State of W.B.*, (2018) 18 SCC 366, observed that in matrimonial disputes with respect to quashing of non-compoundable offences in cases of settlement of such disputes, having ramifications limited to the parties themselves, who have arrived at a settlement, it is the duty of court to encourage and act upon genuine settlements in such cases. It was *inter alia* held as under:

“ 6. As per the appellants, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that Respondent 2 have no grievances whatsoever against the appellants and want both the appellants to get acquitted from the cases. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between them before the court.

7. In the aforesaid circumstances and going by the spirit of the law laid down by this Court in B.S. Joshi v. State of Haryana [B.S. Joshi v. State of Haryana, (2003) 4 SCC 675: 2003 SCC (Cri) 848], we are of the opinion that the High Court should have accepted the settlement and compounded the offences. It is, more so, when the settlement between the parties, who were husband and wife, was even acted upon as the parties took mutual divorce on that basis.

8. We, accordingly, allow this appeal and set aside the order of conviction passed against the appellants.”

11. In Gian Singh v. State of Punjab, (2012) 10 SCC 303, the Apex Court has held that in criminal cases having overwhelmingly and predominatingly civil flavor, or in offences arising out of matrimonial disputes relating to dowry, etc. where the wrong is basically private or personal in nature and the parties have resolved their entire dispute the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.

12. Further in State of M.P. v. Laxmi Narayan & Ors., (2019) 5 SCC 688, the Supreme Court has observed as under:

“ 15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of

matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;”

13. Furthermore, a Coordinate Bench of this Court in CRL.M.C. No. 599/2021 titled ***‘Rifakat Ali & Ors Vs. State & Anr.’***, decided on 26.02.2021 and in CRL.M.C. No. 2819/2022 titled ***‘Sh. Shailesh Deshwal vs. State of NCT of Delhi & Anr.’*** decided on 03.08.2022, following the settled principles enumerated above, have exercised their power under section 482 CrPC to quash criminal proceedings in matrimonial cases, whereby parties have amicably arrived upon a genuine settlement.

14. A perusal of the above-mentioned judgments makes the consistent view taken by the Supreme Court amply clear, that the High Courts should exercise the power under Section 482 CrPC for quashing of criminal cases having overwhelmingly and predominantly civil flavor. In matrimonial matters where the wrong is basically private or personal in nature and the parties have amicably resolved their entire dispute, the High Court may quash the criminal proceedings. However, only if the Court on the basis of record forms an opinion that because of the compromise between the offender and the victim/complainant, the possibility of conviction is remote

and bleak. Because in such cases continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim/complainant. It is thus well-settled that in such situations where the High Court is convinced that continuance of the criminal proceedings would lead to abuse of the process of the court or where quashing of such proceedings on account of a compromise would bring about peace and secure the ends of justice, the Courts should not hesitate to quash them.

15. In the present case, the FIR has been lodged by the respondent wife against the petitioner husband under sections 406/498A/34 IPC. The FIR stems from a matrimonial dispute between the parties. The parties have willingly and amicably settled their disputes vide a settlement agreement dated 17.07.2021. The decree of divorce by mutual consent has already been granted by the Learned Family Court vide order dated 22.11.2021. In a case under Section 498A IPC, if the parties have entered a compromise, the chances of an ultimate conviction are bleak, and hence no useful purpose would be served by allowing the criminal proceedings to continue. The matrimonial disputes of such kind as in the present case have been on an exponential rise in the recent times, resulting in filing of complaints by the wife under Sections 498-A and 406 IPC not only against the husband but his other family members as well. When such matters are resolved either by the wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof parties approach the High Court and jointly pray for quashing

of the criminal proceedings or the FIR or complaint filed by the wife under Sections 498-A and 406 IPC, the courts should not be reluctant in exercising its power under section 482 CrPC to quash such FIR or proceedings emanating therefrom.

16. Thus, the continuance of proceedings arising out of FIR No. 0069/2021, given that the parties have settled their disputes amicably and have been granted divorce by mutual consent, would be an abuse to the process of the courts and an exercise in futility which would not secure ends of justice. In light of the settled law and the statement of respondent No.2/ Ms. Sarika Chopra recorded separately, this Court deems it fit to exercise its inherent jurisdiction under section 482 CrPC to quash the FIR No. 0069/2021 registered at P.S. Budh Vihar U/s 406/498A/34 IPC and all the proceedings emanating therefrom.

17. It is pertinent to mention here that both the parties have stated that the children born out of the wedlock namely Sanya Verma and Aarnav Verma will be free to pursue their legal rights in accordance with the law. The parties have entered into a settlement only with regard to their rights, titles or interests and the rights of the children to pursue their legal remedies as per law is left open.

18. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

DECEMBER 16, 2022
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