



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

Reserved on : 18.07.2023

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Pronounced on : 06.09.2023

+ **CRL.M.C. 1183/2023**

KANAV ARORA

..... Petitioner

Through: Mr. Sunil Dalal, Sr. Advocate with
Mr. Saurabh Goel, Ms. Manisha
Saroja, Mr. Mahabir Singh and Mr.
Nawish Bhati, Advocates.

versus

THE STATE GOVT. OF N.C.T. OF DELHI & ANR.

..... Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Kiran, PS Moti Nagar.
Mr. Vikash Pathat, Mr. Tejas Mehta,
Mr. Amit, Mr. Anurag and Mr.
Sudhir, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. The petitioner has preferred the present petition under Section 482 Cr.P.C. seeking quashing of FIR no. 328/2022 under Section 376 IPC registered at Police Station Moti Nagar, chargesheet and all consequential proceedings.

2. On hearing learned counsel for parties, there is an *ex facie* opinion of this court that the registration of FIR in the present case is abuse of the process of law.

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3. The individuals opted to engage in a physical relationship without formalizing their marriage for a substantial duration. Due to certain circumstances, their bond deteriorated, leading to their separation. This scenario is applicable both prior to and post marriage. Furthermore, a significant amount of time has passed since respondent No.2 filed the aforementioned FIR.

4. The evident details of this case are so apparent that this court is completely willing to dismiss the FIR No. 328/2022 filed under Section 376 at Moti Nagar Police Station and conclude all the legal proceedings. Allowing the continuation of proceedings based on the current FIR would translate to subjecting the involved parties to harassment through the very criminal process.

5. It is firmly established that the authority conferred by Section 482 Cr.P.C. is separate from the authority possessed by the Court to resolve compoundable offenses as outlined in Section 320 of the Code. While it's true that under Section 482 of the Code, the High Court can terminate proceedings even for offenses that aren't eligible for compounding, given that the parties have resolved the matter amicably, this power must be exercised judiciously and carefully. Rape is a grave offense punishable under Section 376 IPC.

6. This Court is fortified to adopt this course of action by the judicial view in (2019) 9 SCC 608 titled "*Pramod Suryabhan Pawar Vs. State of Maharashtra & Anr.*" where in the factual scenario where complainant was aware that there existed obstacles in marrying the accused and still



continued to engage in sexual relations, the Hon'ble Supreme Court quashed the FIR. In the said judgment, a distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled in context of Section 375 Explanation 2 and Section 90 of the IPC, 1860.

7. During the course of the arguments learned counsel for the petitioner has drawn the attention of this Court to the various judgments passed by the Hon'ble Supreme Court and by this Court:

- ***Kapil Gupta v. State NCT of Delhi*, 2022 SCC OnLine SC 1030**
- ***Gian Singh v. State of Punjab & Anr.* (2012) 10 SCC 303**
- ***Salman Rahman v. State Govt. of NCT of Delhi & Ors.* in Crl. M. C. No. 4655 of 2022**
- ***Himanshi Goel v. State (Govt. of NCT of Delhi) & Anr.* in W.P. (Crl.) 1296/2022**
- ***Kundan & Anr. v. State & Ors.* in Crl.M.C. 27/2022.**

8. The Supreme Court in ***Arun Shankar Shukla V State of Uttar Pradesh and others***, AIR 1999 SC 2554 held as under:-

"...It is true that Under Section 482 of the Code, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. But the expressions "abuse of the process of law" or "to secure the ends of justice" do not confer unlimited jurisdiction on the High Court and the alleged abuse of the process of law or the ends of justice could only be secured in accordance with law including procedural law and not otherwise. Further, inherent powers are in the nature of extraordinary powers to be used sparingly for



achieving the object mentioned in Section 482 of the Code in cases where there is no express provision empowering the High Court to achieve the said object. It is well-neigh settled that inherent power is not to be invoked in respect of any matter covered by specific provisions of the Code or if its exercise would infringe any specific provision of the Code. In the present case, the High Court overlooked the procedural law which empowered the convicted accused to prefer statutory appeal against conviction of the offence. The High Court has intervened at an uncalled for stage and soft-pedalled the course of justice at a very crucial stage of the trial.”

9. The Supreme Court in ***B.S. Joshi V State of Haryana (2003) 4 SCC 675*** held that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and the Section 320 Cr.P.C. does not limit or affect the powers under Section 482 Cr.P.C.

10. The Supreme Court in ***Sushil Suri V Central Bureau of Investigation and another,(2011) 5 SCC 708***, considered the scope and ambit of the inherent jurisdiction of the High Court and observed as under:-

“16. Section 482 Code of Criminal Procedure itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely, (i) to give effect to an order under Code of Criminal Procedure; (ii) to prevent an abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is trite that although the power possessed by the High Court under the said provision is very wide but it is not unbridled. It has to be exercised sparingly, carefully and cautiously, ex debito justitiae to do real and substantial justice for which alone the Court exists.”

11. Reliance can also be placed upon the judgment passed by the Hon’ble Supreme Court in Kapil Gupta v. State of NCT of Delhi, 2022 SCC OnLine SC 1030, whereby an FIR under Section 376 of IPC was quashed. The relevant portion of the same reads as follows:



“13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14. The Court has further held that it is also relevant to consider as to what is stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

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17. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

12. In view of the aforesaid factual situation and looking the recent laws laid down by the Hon’ble Supreme Court and perusal of material available on the record, it is clear that result of the trial is obvious and would indicate about acquittal of the petitioner.

13. Therefore, taking into account the above proposition of law; settlement between the parties, this Court is of the opinion that petitioner has made out the case in his favour and quashing of the present FIR will serve the ends of justice and will bring peace and harmony to the lives of the



parties and their families. Not only the Courts will be unburdened but this will also allow the parties to maintain social ties. As a result, this petition is allowed and FIR no. 328/2022 under Section 376 IPC registered at Police Station Moti Nagar, chargesheet and all consequential proceedings shall stands quashed.

14. The petition is disposed of along with pending applications, if any.

RAJNISH BHATNAGAR, J

SEPTEMBER 6, 2023/p