



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

Reserved on : 02.05.2023

%

Pronounced on : 06.09.2023

+ **CRL.M.C. 2927/2023**

SHAKIB ALI @ SAHIL

..... Petitioner

Through: Mr. Kanhaiya Singhal, Mr. Ujwal
Ghai and Mr. Prasanna, Advocates.
Petitioner in person.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Priyanka Dalal, APP for the State
with SI Ankur, P.S.Nihal Vihar.
Mr. Gurjass Singh Puri Advocate for
R-2.
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. This petition has been filed for quashing of FIR No. 704/2022, under Sections 376(2)(n)/506 IPC registered at Police Station Nihal Vihar on the ground that the parties have settled their disputes vide Memorandum of Understanding dated 17.04.2023.
2. Heard.
3. Record Perused.
4. It is stated that in the MOU dated 17.04.2023, which is on record of this Court, the parties had agreed that the physical relationship between



them was out of free consent and without any pressure, coercion or threat and they have now settled the previous disputes and differences.

5. 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.**

6. 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.

7. 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.

8. 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.”

9. In ***Gian Singh v. State of Punjab, (2012) 10 SCC 303***, the Hon’ble Supreme Court has guided and encouraged to quash the FIR in circumstances wherein a compromise has been achieved. The relevant extract of the judgment reads as under:



“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. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, 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. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

10. In ***Permanand Mishra & Another v. The State of NCT of Delhi & Another*** Crl.M.C.No.3076/2021 decided on **05.08.2022** in similar circumstances, the FIR No.24/2018 under Sections 376/313/354 IPC registered at Police Station Moti Nagar was directed to be quashed.

11. Further in ***Mandar Deepak Pawar v. The State of Maharashtra*** in CRL.A.442/2022; ***Anand D.V. v. State & Anr.*** in CRL.A.Nos.394-95/2021; ***Ganesh Shankar Pilane v. The State of Maharashtra and Anr.*** in W.P.(CRL.)272/2022; ***Manteshwar Hanumantrao Kattimani vs. State of Maharashtra and Anr.*** 2016 SCC OnLine Bom 10581; and ***Capt. Simranjit Singh Sambhi v. State (NCT of Delhi) and Anr.*** CRL.M.C.2960/2021 the Courts have exercised power under Section 482 Cr.P.C. to quash the proceedings under Section 376 IPC on the facts mentioned therein.

12. Similarly, in the present case considering the deposition viz her Statement under Section 164 Cr.P.C. recorded on 27.06.2022 as also the



contents of the MOU, I see no reason as to why same relief be not extended to the petitioner herein.

13. It is also pertinent to note here that the aforesaid FIR was lodged only because of the misunderstanding between the parties and now since the misunderstanding has been removed and the respondent no. 2 is already married to someone else, she has no objection if the FIR in question is quashed.

14. Learned APP for the State has also no objection, if this petition is allowed and the FIR in question is quashed.

15. Looking at the narration of facts; the law discussed above; the nature of deposition of prosecutrix; withdrawal of allegations by her at different stages viz before the learned Trial Court as also before this Court, there is no use to continue with the proceedings against petitioner as it would never entail in conviction of petitioners and will be a sheer wastage of time. Moreover, the quashing of this FIR will serve the ends of justice and will bring peace and harmony in the lives of the parties and their respective families.

16. Accordingly, the petition is allowed. Consequently, FIR No. 704/2022, under Sections 376(2)(n)/506 IPC registered at Police Station Nihal Vihar and the proceedings emanating therefrom are quashed. Pending application, if any, also stands disposed of. No order as to costs.

RAJNISH BHATNAGAR, J

SEPTEMBER 6, 2023/p

CRL.M.C. 2927/2023

6 of 6