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

+ **CRL.M.C. 5462/2023**

KAPIL KUMAR AND ORS

..... Petitioners

Through: Mr. Akram Khan, Adv.

versus

STATE AND ANR & ANR.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for the
state with SI Wikhon Pamai, PS
Malviya Nagar

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Date of Decision: 04.09.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 20677/2023 (exemption)

Exemption is allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 5462/2023

1. The present petition has been filed under Section 482 Cr.P.C. seeking



quashing of FIR No. 258/2019 registered at PS Malviya Nagar under sections 323/354/509/34 IPC.

2. Briefly stated, the facts as per the FIR are that the complainant alleges that on 23.08.2019, she along with her brother, Akash was returning home when petitioner no.1 began abusing them and upon being questioned as to why he was doing so, he physically assaulted the complainant and her brother. Subsequently, when confronted by their mother upon the same, the four petitioners beat up the complainant and her family. Learned counsel submits that the chargesheet, in this case, has already been filed and the matter is pending before the Learned MM, Saket Courts, New Delhi.
3. Learned Counsel further submits that during the pendency of the proceedings, the parties have resolved their disputes amicably, and in furtherance thereof, they have entered into a settlement agreement dated 15.5.2023 before the Mediation Centre, Saket Courts, New Delhi. The petitioners and respondent no.2 have amicably settled their disputes without any consideration amount.
4. Furthermore, the Learned Counsel for the petitioners submits that since the parties have resolved all their differences amicably, therefore, it would be in the interest of justice to quash FIR No. 258/2019 registered at PS Malviya Nagar under sections 323/354/509/34 IPC and all the proceedings emanating therefrom.
5. The settlement arrived at the Mediation Centre, Saket Courts, Delhi dated 15.05.2023 on the following terms and conditions:



“1. That the matter is resolved amicably between both the parties without any consideration amount. It is also agreed that both parties shall maintain peace and tranquility, and they shall not repeat any such incidents and they shall live with peace and harmony as a next door neighbor. It is further agreed that both the parties are left with no grievances against each other, whatsoever nature.

2. It is further agreed between the parties that in pursuance to this settlement, both the parties shall make necessary statements before the concerned Hon'ble Court in the present matter for compounding the compoundable offence of the FIR/quashing of the FIR. The First Party shall co-operate for compounding of the compoundable offences/quashing of the FIR.

3. It is further agreed between the parties that upon compliance of all the terms and conditions, as above, nothing shall remain due between the parties in respect of the present matter and: they shall not file any case (civil or criminal)/complaint regarding the same.”

6. All the parties are present in court and have duly been identified by the IO. Further, the IO states that except the present FIR there is no other case pending against the petitioners. Respondent No. 2 submits that she has entered the settlement voluntarily without any fear, force, or coercion. She has no objection if FIR No. 258/2019 registered at PS Malviya Nagar under sections 323/354/509/34 IPC, New Delhi is quashed.
7. The Hon'ble Supreme Court in ***Saju P.R. v. State of Kerala***, Criminal Appeal No.1740/2019 *inter-alia* held that:



“Considering the peculiar facts of the present case, the affidavit filed by the complainant and other materials on record, in our opinion, the relief claimed by the appellant to quash the criminal proceedings pending against him deserves to be acceded to for doing complete justice to the parties concerned.”

8. The Kerala High Court in **Vishnu v. State of Kerala &Anr. and other connected matters**, 2022 SCCOnline Ker 4361 *inter-alia* held that:

“16. From the precedents and law on the subject enunciated above, it can be concluded that though the High Court should not normally interfere with the investigation/criminal proceedings involving sexual offences against women and children only on the ground of settlement, it is not completely foreclosed in exercising its extraordinary power under section 482 of Cr. P.C or Article 226 of the Constitution of India to quash such proceedings in ‘extraordinary circumstances’ to do complete justice to the parties. However, it is always a difficult task for the Court to identify the so-called ‘extraordinary circumstance’. The interest of the victim and the societal interest often clash, making the job of Courts more complex. The issue must be considered from different perspectives, the pros and cons must be weighed, and a rational view must be taken. A holistic approach is called for in identifying the cases fit for compromise.”

9. It is settled law that the inherent powers under section 482 of the Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court. Further, the High Court can quash non-compoundable offences after considering the nature of the offence, the gravity of the case, and the amicable settlement between the concerned parties.
10. Taking into account the totality of facts and circumstances of the case



and doing complete justice to the future of Respondent No. 2, this court considers that the parties have entered into an amicable settlement out of their own free will, without any fear, force, or coercion and they should be given an opportunity to lead their lives peacefully. No purpose will be served in continuing with the trial.

- 11.However, considering their conduct, the petitioners are burdened with the cost of Rs.5,000/-each to be deposited withthe “Delhi High Court Legal Service Committee.”
- 12.Taking into account the totality of facts and circumstances, the present case FIR No. 258/2019 registered at P.S. Malviya Nagar under sections 323/354/509/34 IPC and all the proceedings emanating therefrom are quashed.
- 13.The present petition stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 4, 2023

Pallavi