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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 22nd September 2023*+ **CRL.M.C. 6900/2023****NIPUN MEHRA & ORS.**

..... Petitioners

Through: Mr. Kuber Giri, Mr. Saurabh Kansal
and Mr. Raghav Vig, Advocates with Petitioner
No. 1-in-person and Petitioners No. 2 and 3
(Through Video Conferencing)

versus

**THE STATE GOVT. OF NCT OF DELHI
& ANR.**

..... Respondents

Through: Mr. Digam Singh Dagar, APP for
State with SI Rekha Chauhan.
Mr. Sidharth Joshi, Ms. Ambareen and
Ms. Deepshikha, Advocate for Respondent No. 2
with Respondent No. 2-in-person.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****CRL.M.A. 25791/2023 (exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 6900/2023

3. By this petition filed under Section 482 Cr.P.C., Petitioners seek quashing of FIR No. 328/2019 dated 05.06.2019, under Sections 498A/406/34 IPC, PS New Ashok Nagar, Delhi as well as all other consequential proceedings emanating therefrom in view of the settlement arrived at between Petitioner No. 1/Mr. Nipun Mehra and Respondent No. 2/Ms. Shweta Singh Chauhan. Petitioner No. 2 is the father of Petitioner



No. 1 while Petitioner No. 3 is the mother.

4. Marriage between Petitioner No. 1 and Respondent No. 2 (hereinafter collectively referred to as 'parties') was solemnized on 17.01.2016 as per Hindu rites and customs. No child is born out of the wedlock. Due to temperamental differences and certain other reasons, parties have been residing separately since 01.05.2018. Respondent No. 2 (Complainant) lodged an FIR against all the Petitioners herein, which was registered as FIR No. 328/2019. Respondent No. 2 also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (DV Act) and a petition seeking divorce under Section 13(1)(ia) of Hindu Marriage Act, 1955 (HMA).

5. During the pendency of the proceedings, parties have amicably resolved and settled their *inter se* disputes and a Memorandum of Settlement was executed on 19.07.2022, which has been placed on record. In terms of the Settlement Deed, parties filed First Motion before the learned Family Court and the same was allowed on 26.09.2022. At the time of recording of statement of First Motion, Petitioner No. 1 paid a sum of Rs.2,50,000/- to Respondent No. 2 and thereafter parties preferred Second Motion, which was allowed on 15.05.2023, on which date Petitioner No. 1 paid another sum of Rs.2,50,000/- and a Decree of Divorce was passed, dissolving the marriage between the parties. It is stated in the petition that Respondent No. 2 has already withdrawn the complaint under Section 12 of the DV Act and the divorce petition under HMA. As a part of the settlement, Respondent No. 2 agreed that she will withdraw all proceedings arising out of the FIR in question and Petitioner No. 1 shall pay a sum of Rs.5,00,000/- at the time of quashing of the FIR.



6. Parties are physically present in Court while Petitioners No. 2 and 3 are appearing through video conferencing and have been identified by their respective counsels and the Investigating Officer (IO) SI Rekha Chauhan, PS New Ashok Nagar, Delhi. Honoring the obligation under the Settlement Deed, a Demand Draft bearing No. 485483 dated 15.09.2023 for a sum of Rs.5,00,000/- drawn on Punjab and Sind Bank has been handed over to Respondent No. 2 in Court and she has acknowledged the receipt of the same.

7. Respondent No. 2 states that since the matter has been settled between the parties and all terms of the settlement under the Settlement Deed dated 19.07.2022 have been complied with including payment of the amounts due and payable, she has no objection if the FIR is quashed against the Petitioners.

8. In view of the settlement between the parties, learned APP for the State does not object to the FIR being quashed.

9. I have heard the counsels for the parties and the learned APP. In ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, the Supreme Court held as follows:-

“61. The position that emerges from the above discussion can be summarised 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 predominatingly 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. The Supreme Court reaffirmed the aforesaid position in ***Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another, (2013) 4 SCC 58***, relevant passages of which are extracted hereunder, for ready reference:-

“7. The scope and ambit of power under Section 482 of the Code has been examined by this Court in a catena of earlier decisions. In the present case, we are concerned about interference by the High Court exercising jurisdiction under Section 482 in relation to matrimonial disputes.

8. It is not in dispute that matrimonial disputes have been on considerable increase in recent times resulting in filing of complaints under Sections 498-A and 406 IPC not only against the husband but also



against the relatives of the husband. The question is when such matters are resolved either by the wife agreeing to rejoin the matrimonial home or by mutual settlement of other pending disputes for which both the sides approached the High Court and jointly prayed for quashing of the criminal proceedings or the FIR or complaint by the wife under Sections 498-A and 406 IPC, whether the prayer can be declined on the sole ground that since the offences are non-compoundable under Section 320 of the Code, it would be impermissible for the Court to quash the criminal proceedings or FIR or complaint.

9. It is not in dispute that in the case on hand subsequent to the filing of the criminal complaint under Sections 498-A and 406 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, with the help and intervention of family members, friends and well-wishers, the parties concerned have amicably settled their differences and executed a compromise/settlement. Pursuant thereto, the appellants filed the said compromise before the trial court with a request to place the same on record and to drop the criminal proceedings against the appellants herein. It is also not in dispute that in addition to the mutual settlement arrived at by the parties, the respondent wife has also filed an affidavit stating that she did not wish to pursue the criminal proceedings against the appellants and fully supported the contents of the settlement deed. It is the grievance of the appellants that not only the trial court rejected such prayer of the parties but also the High Court failed to exercise its jurisdiction under Section 482 of the Code only on the ground that the criminal proceedings relate to the offences punishable under Sections 498-A and 406 IPC which are non-compoundable in nature.

10. The learned counsel for the parties, by drawing our attention to the decision of this Court in *B.S. Joshi v. State of Haryana* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848], submitted that in an identical circumstance, this Court held that the High Court in exercise of its inherent powers under Section 482 can quash criminal proceedings in matrimonial disputes where the dispute is entirely private and the parties are willing to settle their disputes amicably.

11. It is not in dispute that the facts in *B.S. Joshi* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] are identical and the nature of the offence and the question of law involved are almost similar to the one in hand.

12. After considering the law laid down in *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and explaining the decisions rendered in *Madhu Limaye v. State of Maharashtra* [(1977) 4 SCC 551 : 1978 SCC (Cri) 10], *Surendra Nath Mohanty v. State of Orissa* [(1999) 5 SCC 238 : 1999 SCC (Cri) 998] and *Pepsi Foods Ltd. v. Judicial Magistrate* [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400] this Court held: (*B.S. Joshi case* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848], SCC p. 680, para 8)



“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.”

Considering matrimonial matters, this Court also held: (B.S. Joshi case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , SCC p. 682, para 12)

“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. As stated earlier, it is not in dispute that after filing of a complaint in respect of the offences punishable under Sections 498-A and 406 IPC, the parties, in the instant case, arrived at a mutual settlement and the complainant also has sworn an affidavit supporting the stand of the appellants. That was the position before the trial court as well as before the High Court in a petition filed under Section 482 of the Code. A perusal of the impugned order [Misc. Criminal Case No. 2877 of 2012, decided on 4-7-2012 (MP)] of the High Court shows that because the mutual settlement arrived at between the parties relate to non-compoundable offence, the Court proceeded on a wrong premise that it cannot be compounded and dismissed the petition filed under Section 482. A perusal of the petition before the High Court shows that the application filed by the appellants was not for compounding of non-compoundable offences but for the purpose of quashing the criminal proceedings.

14. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In B.S. Joshi [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.



16. *There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders."*

11. In view of the fact that parties have mutually settled the matter in order to put a quietus to the litigations pending between them, no useful purpose will be achieved by continuing the proceedings emanating out of the subject FIR.

12. In the interest of justice and in view of the observations of the Supreme Court in the aforementioned judgments, petition is allowed and FIR No. 328/2019 dated 05.06.2019, under Sections 498A/406/34 IPC, registered at PS New Ashok Nagar, Delhi, pending before learned Metropolitan Magistrate, Karkardooma Courts, Delhi including all other proceedings emanating therefrom are hereby quashed.

13. Petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 22, 2023/shivam