



\$~33 & 34

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

33

+ CRL.M.C. 142/2024

DHARMENDRA GUPTA AND ORS.

..... Petitioners

Through: Mr. Neeraj Kumar, Advocate along
with Petitioners in person.

versus

THE STATE OF NCT OF DELHI AND ANR. Respondents

Through: Mr. Digam Singh Dagar, APP for
State with HC Sunderlal, SO Branch, SE.

Mr. Akash and Mr. Lav Sharma, Advocates along
with R-2 in person.

34

+ CRL.M.C. 484/2024

DHARMENDRA GUPTA & ANR.

..... Petitioners

Through: Mr. Neeraj Kumar, Advocate along
with Petitioners in person.

versus

THE STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Digam Singh Dagar, APP for
State with SI Sumit Kumar, P.S. Govindpuri.

Mr. Akash and Mr. Lav Sharma, Advocates along
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

09.02.2024

%



CRL.M.A. 1930/2024 (exemption) in CRL.M.C. 484/2024

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

CRL.M.C. 142/2024

3. This petition has been filed on behalf of the Petitioners under Section 482 Cr.P.C. for quashing of FIR No. 405/2021 dated 24.06.2021 under Sections 498A/406/34 IPC registered at PS: Govindpuri along with proceedings emanating therefrom. Respondent No.2 is the wife of Petitioner No.1.
4. Marriage between Petitioner No. 1 and Respondent No. 2 was solemnized on 15.05.2001 as per Hindu rites and ceremonies at Delhi. Two children were born out of the said wedlock. On account of matrimonial discord and misunderstandings between Petitioner No. 1 and Respondent No. 2, they started living separately since May, 2021. Respondent No. 2 filed a complaint against the Petitioners which culminated in FIR No. 405/2021. A complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 was also filed by Respondent No.2. Another petition was filed by Respondent No.2 under Section 20 of Hindu Adoptions and Maintenance Act, 1956.
5. During the pendency of the criminal proceedings, parties have amicably resolved their disputes and differences and a Settlement Deed dated 23.08.2023 was executed between Petitioner No. 1 and Respondent No. 2. As per the terms of settlement, a sum of Rs.16,50,000/- was payable by Petitioner No.1 to Respondent No.2, in full and final settlement of all her claims, including permanent alimony, istridhan, dowry, maintenance etc. Out of the total settlement amount, first instalment of Rs.8,25,000/- was paid



at the time of recording of statements during First Motion under Section 13B(1) of Hindu Marriage Act, 1955 and second instalment of Rs.2,25,000/- was paid at the time of recording of statements during the Second Motion under Section 13B(2) of the said Act. The third instalment of Rs.2,00,000/- was paid at the time of handing over of vacant possession of property bearing No. 1066-A, Third Floor, 10, Govindpuri, Kalkaji by Petitioner No.1 to Respondent No.2. Balance amount of Rs.4,00,000/- was payable at the time of quashing of the present FIR. Pursuant to the settlement, marriage between Petitioner No. 1 and Respondent No. 2 has been dissolved by mutual consent by a Decree of Divorce dated 03.11.2023, copy of which has been annexed with the petition. All pending cases between the parties have been withdrawn.

CRL.M.C. 484/2024 & CRL.M.A. 4246/2024

6. This petition has been filed on behalf of Petitioners under Section 482 Cr.P.C. for quashing of FIR No. 171/2022 dated 02.02.2022 under Sections 354/354A IPC registered at PS: Govindpuri along with proceedings emanating therefrom. Respondent No.2 is the daughter of Petitioner No.1.

7. It is averred that on 02.02.2022, a quarrel occurred between Petitioner No.1 and mother of Respondent No.2 and agitated by the same, at the spur of the moment, Respondent No.2 made a complaint culminating in FIR No. 171/2022. In this backdrop, Complainant has settled the matter and does not wish to prosecute the complaint. Settlement Deed was executed between Petitioner No. 1 and Respondent No. 2 on 11.01.2024. As per the terms of settlement, Respondent No. 2 would live with her mother and Petitioner No.1 will not claim custody/visitation rights. Petitioner No.1 will not create any nuisance or problem in the peaceful life of Respondent No. 2 and



Respondent No.2 will cooperate in quashing of the present FIR.

8. Issue notice.

9. Learned APP accepts notice on behalf of the State in both the petitions.

10. Mr. Akash, learned counsel accepts notice on behalf of the Complainants.

11. Petitioners and Complainants in both the petitions are present in Court and are identified by their respective counsels as well as the Investigating Officer SI Sumit Kumar, P.S. Govindpuri. Respondent No. 2 in CRL.M.C. 142/2024 states that balance amount of Rs. 4,00,000/- has been received by her today in Court by way of Demand Draft bearing No. 098570 dated 15.01.2024 drawn on IndusInd Bank, New Friends Colony, New Delhi. Copy of the Demand Draft has been handed over in Court and is taken on record. Respondent No. 2 submits that she has no objection to the FIR being quashed as the marriage between her and Petitioner No. 1 stands dissolved and all other disputes have been amicably resolved and settled. Learned APP also has no objection to the quashing of the FIR, in view of the settlement between the parties. Likewise, Respondent No.2 in CRL.M.C. 484/2024 states that in view of the settlement between the parties, she has no objection to the quashing of the FIR registered pursuant to her complaint.

12. The Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer



to the question is in the affirmative, the High Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are as follows:-

“55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

xxx

xxx

xxx

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity,



the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

xxx

xxx

xxx

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 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.”

13. The Supreme Court has consistently reaffirmed this view and in the context of matrimonial disputes, it would be relevant to refer to the observations of the Supreme Court in ***Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another***, (2013) 4 SCC 58, relevant paragraphs of which are as follows:-

“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.”

14. It would be relevant to refer to the view taken by this Court in the case of **Akashsharma v. State & Anr., 2017 SCC OnLine Del 8152**, where the Court while quashing an FIR under Sections 354/354A/341 IPC held as under:-

“9. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no. 2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

10. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

11. It is a settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of State of Maharashtra through CBI v. Vikram Anatrai Doshi and in the case of Inder Singh Goswami v. State of Uttaranchal has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

12. It is a well settled law that where the High Court is convinced that



the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi v. State of Haryana (2003) 4 SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

13. *In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 354 is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.*

14. *In the facts and circumstances of this case and in view of statement made by the Respondent No. 2 the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed."*

15. Parties have mutually settled all their disputes and differences. Respondent No. 2 in CRL.M.C. 142/2024 acknowledges having received the total settlement amount. Marriage between Petitioner No. 1 and Respondent No.2 stands dissolved. Respondent No.2 in CRL.M.C. 484/2024 also has no objection to the quashing of the FIR. In view of the settlement between the parties and the categorical stand of the Complainants that they do not wish to prosecute the complaints, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIRs as the chances of conviction are bleak. It would be in the interest of justice that the proceedings are terminated as their continuation will only restore acrimony



between the parties instead of the peace and harmony that currently prevails. This Court is fortified in its view by the judgments of this Court in ***Janakraj & Ors. v. State Govt. Of NCT of Delhi & Anr.***, MANU/DE/1051/2024 and ***Gopal Jha v. State and Anr.***, MANU/DE/6247/2023, where the Court has quashed FIRs under similar provisions, predicated on settlement between the parties, in the interest of justice. Accordingly, FIR No. 405/2021 dated 24.06.2021 under Sections 498A/406/34 IPC registered at PS: Govindpuri and FIR No. 171/2022 dated 02.02.2022 under Sections 354/354A IPC registered at PS: Govindpuri are quashed including proceedings emanating therefrom.

16. It is made clear that in view of the binding dictum of the Supreme Court in ***Ganesh v. Sudhirkumar Shrivastava and Others***, (2020) 20 SCC 787, the terms of settlement between Petitioner No. 1 and Respondent No. 2 in CRL.M.C. 142/2024 shall not come in the way of the child born out of the wedlock, from enforcing her rights against Petitioner No. 1 and Respondent No. 2, if and when she chooses to so enforce.

17. Petitions stand allowed and disposed of. Pending application also stands disposed of.

JYOTI SINGH, J

FEBRUARY 09, 2024/kks