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

+ **CRL.M.C. 725/2024**

MUKARRAM

..... Petitioner

Through: Mr. Pradeep Chauhan, Mr. Neeraj Kumar Sharma and Mr. Himanshu Sharma, Advocates along with Petitioner in person.

versus

**THE STATE NCT OF DELHI THROUGH SHO P S SUBZI MANDI
DELHI & ANR.**

..... Respondents

Through: Mr. Digam Singh Dagar, APP for State with SI Ranjana, P.S. Subzi Mandi. Ms. Shalini and Mr. Ganesh Kumar, Advocates for R-2 along with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

30.01.2024

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CRL.M.A. 2907/2024 (exemption)

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

CRL.M.C. 725/2024

3. This petition has been filed under Section 482 Cr.P.C. seeking quashing of summoning order dated 23.03.2023 passed by learned Additional Chief Metropolitan Magistrate-01, Central, Tis Hazari Courts, Delhi in CC No.94/1/2015, titled as 'XXXX v. Mukarram' and proceedings pending before learned Additional Sessions Judge, Tis Hazari Courts, Delhi in SC Case No.432/2023 titled 'State v. Mukarram & Anr.', predicated on a settlement between Petitioner and Respondent No.2/Prosecutrix.



4. As per the averments in the petition, Respondent No.2 filed a complaint before the learned MM under Section 156(3) Cr.P.C. alleging that Petitioner entered into physical relations with Respondent No.2 at various places on the pretext of false marriage. On 15.08.2014, marriage was solemnized as per Muslim law but Petitioner did not take Respondent No.2 to his home. During the pendency of the bail application filed by the Petitioner, parties were referred for mediation and settlement was arrived at on 03.08.2015, where it was agreed that Petitioner would take a house at a prominent place and stay with Respondent No.2 as his legally wedded wife. On these terms, bail was granted, however, Petitioner did not abide by the undertaking. On a complaint lodged by Respondent No.2, case FIR No.242/2015 was registered under Sections 498A/406/34 IPC and during the hearing of the anticipatory bail application, Petitioner pleaded that he had divorced Respondent No.2 by pronouncing *Talaq* on 21.03.2015. Bail application was dismissed. Trial Court summoned the Petitioner for commission of offence under Section 376 IPC after the report was filed under Section 202 Cr.P.C. There are other litigations also pending between the parties.

5. During the pendency of all the aforementioned litigations, Petitioner and Respondent No.2 reconciled all their differences with the help of their families and well-wishers and a Memorandum of Understanding was executed on 07.11.2023, copy of which has been filed along with the petition. As per the terms of settlement, Petitioner agreed to pay a total sum of Rs.7 lacs to Respondent No.2 in two instalments, in addition to returning one gold chain and one gold ring. Out of the said amount, Rs.3.5 lacs were to be paid at the time of signing of the MoU along with



return of jewellery and balance was payable at the time of quashing of the present FIR.

6. Issue notice.
7. Learned APP accepts notice on behalf of the State.
8. Ms. Shalini, learned counsel accepts notice on behalf of Respondent No. 2.
9. Petitioner and Respondent No.2 are present in Court and have been identified by the Investigating Officer SI Ranjana, P.S. Subzi Mandi. Respondent No.2 acknowledges the receipt of balance amount of Rs.3.5 lacs paid to her by way of Demand Draft bearing No.000140 dated 11.12.2023 drawn on AU Small Finance Bank. Copy of the Demand Draft is handed over in Court and is taken on record. Respondent No.2 states that she has voluntarily and willingly settled the matter and wishes to put a quietus to the prolonged litigation spread over 10 years and supports the quashing of the FIR. Learned APP states that in view of the settlement between the parties, he leaves the decision to the Court.
10. The Supreme Court has delineated the parameters within which the inherent powers under Section 482 Cr.P.C. must be exercised by the High Court. It has been affirmed and re-affirmed that the extraordinary powers should be sparingly exercised and with care and caution and can be used to prevent abuse of the process of Court or to secure ends of justice and in each case, it would be dependent on the facts and circumstances that arise. In ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, the Supreme Court held 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.

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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.

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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.”

11. It is true that some of the offences pertaining to the present case are non-compoundable, however, in the case of **B.S. Joshi and Others v. State**



of Haryana and Another, (2003) 4 SCC 675, the Supreme Court has observed that even though provisions of Section 320 Cr.P.C. would not apply to offences, which are non-compoundable, it does not limit or affect the powers under Section 482 Cr.P.C. The Court held 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 such power.

12. In *Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834*, the Supreme Court held as follows:-

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws



*evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466 and *Laxmi Narayan (Supra)*.*

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

13. The Supreme Court in ***Sushil Suri v. Central Bureau of Investigation and Another*, (2011) 5 SCC 708** considered the scope and ambit of exercise of inherent powers under Section 482 Cr.P.C. and held as follows:-

"16. Section 482 CrPC 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 CrPC; (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. Nevertheless, it is neither feasible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction of the Court. Yet, in numerous



cases, this Court has laid down certain broad principles which may be borne in mind while exercising jurisdiction under Section 482 CrPC. Though it is emphasised that exercise of inherent powers would depend on the facts and circumstances of each case, but the common thread which runs through all the decisions on the subject is that the Court would be justified in invoking its inherent jurisdiction where the allegations made in the complaint or charge-sheet, as the case may be, taken at their face value and accepted in their entirety do not constitute the offence alleged.”

14. Having perused the terms of settlement and taking note of the stand of Respondent No.2 that she does not want to prosecute the complaint and instead, desires to put a quietus to the litigation, this Court is of the view that no purpose will be achieved in continuing the criminal proceedings. Accordingly, summoning order dated 23.03.2023 passed by learned Additional Chief Metropolitan Magistrate-01, Central, Tis Hazari Courts, Delhi in CC No.94/1/2015, titled as ‘XXXX v. Mukarram’ and proceedings pending before learned Additional Sessions Judge, Tis Hazari Courts, Delhi in SC Case No.432/2023 titled as ‘State v. Mukarram & Anr.’ are hereby quashed.

15. Petition stands allowed and disposed of.

JYOTI SINGH, J

JANUARY 30, 2024/kks