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

\+ W.P.(CRL) 488/2024

SAURABH KUMAR SAXENA & ORS. ..... Petitioners

Through: Mr. Gaurav Malhotra and Ms. Bhavna, Advocates with Petitioners in person.

versus

STATE NCT OF DELHI AND ANR. ..... Respondents

Through: Mr. Anand V. Khatri, ASC for State with SI Nidhi Yadav, PS: Preet Vihar.

Mr. Piyush Rayal, Advocate for R-2 with R-2 in person.

**CORAM:**
**HON'BLE MS. JUSTICE JYOTI SINGH**

**O R D E R**

**% 12.02.2024**

**CRL.M.A. 4442/2024 (exemption)**

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

**W.P.(CRL) 488/2024**

3. This is a petition filed by the Petitioners under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No. 363/2022 dated 06.10.2022 under Sections 498A/406/506 IPC registered at PS: Preet Vihar, Delhi along with proceedings emanating therefrom.

4. Marriage between Petitioner No. 1 and Respondent No. 2 was solemnized on 04.03.2022 as per Hindu rites and ceremonies at Uttar Pradesh. No child was 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 12.05.2022.



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Respondent No. 2 filed a criminal complaint before CAW Cell against the Petitioners, which culminated in the present FIR.

5. During the pendency of the criminal proceedings, with the intervention of family members and relatives, parties have amicably resolved their disputes and differences and a Memorandum of Understanding dated 26.04.2023 was executed between Petitioner No. 1 and Respondent No. 2. 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 01.12.2023, copy of which has been annexed with the petition. There is no monetary settlement between the parties.

6. Issue notice.

7. Learned ASC accepts notice on behalf of the State.

8. Mr. Piyush Rayal, learned counsel accepts notice on behalf of Respondent No.2.

9. Petitioners and Respondent No. 2 are present and are identified by their respective counsels as well as the Investigating Officer SI Nidhi Yadav, PS: Preet Vihar. 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 ASC also has no objection to the quashing of the FIR, in view of the settlement between the parties.

10. 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



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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.*
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> *xxx* *xxx* *xxx*
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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*



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*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 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*



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*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. 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*



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*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."*

12. Parties have mutually settled all their disputes and differences. Respondent No. 2 submits that marriage between Petitioner No. 1 and Respondent No.2 stands dissolved. In view of the settlement between the parties and the categorical stand of Respondent No.2 that she does not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIR as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated. This Court is fortified in its view by the judgments of this Court in ***Vaibhav Upadhyay and Others v. State NCT of Delhi and Another, 2023 SCC OnLine Del 1116*** and ***Nazimuddin and Others v. State and Another, 2019 SCC OnLine Del 9325,*** where the Courts have quashed FIRs under similar provisions, predicated on settlement between the parties, in the interest of justice. Accordingly, FIR No. 363/2022 dated 06.10.2022 under Sections 498A/406/506 IPC registered at PS: Preet Vihar, Delhi is quashed including proceedings emanating therefrom.

13. Petition stands allowed and disposed of.

**JYOTI SINGH, J**

**FEBRUARY 12, 2024/kks**



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