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

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***Reserved on: 08.02.2024
Pronounced on: 14.02.2024***+ **W.P.(CRL) 580/2023****PURUSHOTTAM SAHU**

..... Petitioner

Through: Mr. S.S. Rawat with Ms.
Harvinder Kaur,
Advocates.

versus

THE STATE OF NCT OF DELHI & ANR. RespondentsThrough: Ms. Nandita Rao, ASC for
State with SI Anju, IO P.S.
Gazipur.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. By way of the present writ petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C. '), petitioner seeks quashing of FIR bearing no. 574/2022 registered at Police Station Ghazipur, Delhi for offences punishable under Sections 498A/406/304B of the Indian Penal Code, 1860 ('IPC') and criminal proceedings emanating therefrom.
2. Briefly stated, facts of the present case are that the present FIR was registered on the complaint of respondent no. 2/complainant



wherein it was stated that the marriage between daughter of the respondent no.2 and petitioner herein was solemnized according to Hindu rites and customs on 20.11.2019. It was alleged by the complainant that the accused/petitioner along with deceased daughter of the respondent no. 2 was residing together as husband and wife in Delhi and the said marriage had been duly consummated, however no child was born from the said wedlock. It was alleged that soon after the marriage, the petitioner had started torturing the deceased and used to make regular demand for dowry, which certainly lead to her death by way of suicide. It is further alleged that due to the constant pressure of not being able to conceive and adhere to the petitioner's demands, the daughter of the complainant had died.

3. Learned Counsel appearing on behalf of the petitioner submits that the present case has been amicably settled between the complainant and the petitioner. It is further submitted that the petitioner and the complainant have entered into a compromise deed dated 20.02.2023 with their free consent, without any threat or pressure or coercion or undue influence. Therefore, the present FIR be quashed, as prayed for.

4. Learned ASC appearing on behalf of the State opposes the present writ petition and vehemently argues that the allegations in the FIR are serious and grave in nature. It is further argued that since the FIR is registered for offences punishable under Section 304-B, it cannot be quashed on the basis of a compromise. It is also argued Therefore, the present petition be dismissed.



5. This Court has heard arguments on behalf of learned counsel for the petitioner and learned ASC for State and has perused material on record.

6. This Court observes that in the present case, the FIR was lodged by respondent no. 2, who has alleged that subsequent to the marriage between the petitioner and his daughter, the petitioner subjected the deceased to torture and persistently made demands for dowry. These actions had allegedly culminated in the tragic death of the deceased by suicide on 31st October 2022.

7. The petitioner by way of present petition, seeks quashing of FIR under Section 482 Cr.P.C. The scope of inherent powers of High Courts under Section 482 of Cr.P.C. has been elaborated in a *catena* of judgments by the Hon'ble Apex Court. The guidelines for quashing of criminal proceedings have been laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal* 1992 SCC (Crl) 426, which are extracted herein-under for reference:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and



accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the



extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

8. Recently, the Hon’ble Apex Court in *Neeharika Infrastructure v. State of Maharashtra, 2021 SCC OnLine 315*, has analysed the precedents and culled out the relevant principles that govern the law on quashing of an FIR under Section 482 of the Cr.P.C. It has been held as under:

“...57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the ‘rarest of rare cases. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;



vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognized to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and xv)



When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR...”

(Emphasis Supplied)

9. The Hon'ble Supreme Court in the case of ***Rakhi Mishra V. State of Bihar and Others*** (2017) 16 SCC 772 has held that the High Courts can use its power under Section 482 of Cr.P.C. only in exceptional circumstances when a prima facie case is not made out against the accused.

10. In the case of ***Sanapareddy Maheedhar Seshagiri v. State of A.P.*** (2007) 13 SCC 165, it has been observed by the Apex Court as under:

"31. A careful reading of the above noted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished.



Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power under Section 482 CrPC.”

(Emphasis Supplied)

11. In *Gian Singh v. State of Punjab* (2012) 10 SCC 303, the Hon’ble Supreme Court discussed the circumstances in which the High Courts can quashes criminal proceedings in case of a non-compoundable offence, when there is a settlement between the parties and enunciated the following principles:

“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”.

12. A three judge Bench of the Hon’ble Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinbhai Karmur & Ors. V. State of Gujrat & Anr* 2017 9 SCC 641 has held that where serious and grave offences are involved, the quashing of FIR cannot be allowed on



the basis of a compromise. The Hon'ble Supreme Court laid down the following principles to quash FIR or the criminal proceedings:

"16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated. **16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.**

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing



insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

13. The **issue under consideration** before this Court in the present petition is whether an FIR filed under Section 304B can be quashed based on a settlement between the involved parties.

14. Upon careful examination of the circumstances, this Court acknowledges that while the parties may have reached a settlement in the matter at hand, the nature of the offences alleged is grave and severe. Such offences are typically categorized as crimes against society at large. It is imperative for the State to uphold its duty in ensuring that perpetrators of such crimes are duly punished.

15. Even in instances where the parties involved have come to a resolution, it is paramount to prioritize the broader interests of society. The mere agreement between the accused and the complainant does not supersede the societal imperative for justice. Punishment of the offender



serves not only as a means of retribution but also as a deterrent to prevent similar transgressions in the future.

16. Therefore, notwithstanding any settlement reached between the parties, the primary concern remains the maintenance of law and order and the protection of societal interests. The State's obligation to prosecute offenders in cases involving serious crimes such as those outlined under Section 304B remains unwavering, as it is essential for upholding the rule of law and safeguarding the welfare of the community.

17. In cases involving Section 304B of the Indian Penal Code, where the victim has tragically departed from this world, it is essential that the pursuit of justice transcends individual interests and considerations. The grievous nature of these offences, particularly when they result in the loss of a life, necessitates a steadfast commitment to upholding the principles of justice and protecting **the rights of the deceased**.

18. It cannot be countenanced that the complainant, be it the victim's father or any other party, can unilaterally resolve the case through an agreement with the accused. In such instances, the **Court assumes the role of a guardian for those who have departed**, who have departed from this world ensuring that their voices are heard and their rights vindicated. The duty of the state becomes paramount in advocating for the interests of the deceased, who can no longer speak for themselves.

19. The father of the complainant now states that they may have lodged the complaint under some misunderstanding, that they have settled the dispute with the petitioners with the intervention of family members and friends and that now, no dispute remains pending between



the parties. This Court is constrained to observe that when a complaint had been lodged by the father of the deceased specifically levelling allegations of cruelty against the petitioners and as to how their deceased daughter had been driven to commit suicide and the reasons for the same that she was unable to conceive a child, where can be a question of sorting out the differences between themselves and the accused persons with the help of family and friends, especially when the real victim in his case has unfortunately been driven to commit suicide and is no more before this Court to plead her own case. The real reason for lodging complaint and as to whether it was false and as to why it was lodged can be ascertained only during a trial. In a case as the present one, the trial cannot be throttled before it commences to reach the truth.

20. The sanctity of human life and the justice demand that the legal system remain vigilant in prosecuting offenders and securing redressal for victims of dowry-related or matrimonial violence.

21. With regard to the present case, it is noted that **the chargesheet has not been filed yet even though the FIR was registered on 08.11.2022. It is also noted after perusal of the MLC filed on record shows that the cause of death has been kept pending since viscera report has not been received. It is also noted that the post mortem report shows abrasions on the body of the deceased.** This Court further takes note of the statements made by the complainant/respondent no.2 before the police, wherein the complainant had explicitly leveled allegations of torture and dowry demands against the petitioner. The investigation cannot be stopped as the investigation may reveal any



further facts which may or may not be in favour of the petitioners herein. The petition filed before this Court is pre-mature and cannot be allowed.

22. Thus, in view of the aforesaid discussion, and considering the seriousness and gravity of the offence, and that the chargesheet in the present case has not been filed, this Court does not find it a fit case for quashing of FIR.

23. Accordingly, the present petition stands dismissed.

24. However, it is clarified that no observation made hereinabove by this Court shall have any effect on the merits of the case during the trial.

25. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 14, 2024/ns