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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(CRL) 560/2024 & CRL.M.A. 5152/2024**

RAHUL GAUR & ORS.

..... Petitioner

Through: Mr. S. Shah & Mr. Aman
Kumar, Advs. with
petitioner in person.

versus

STATE (N.C.T. OF DELHI) & ANR. Respondent

Through: Mr. Anand V. Khatri, ASC
(Crl.) for GNCTD/State.
SI Manisha, PS Punjabi
Bagh.
Adv. Akhil Rexwal, Adv.
Aditiya, Adv. Deepak Raj,
Adv. Vicky Rexwal for R-
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CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% 19.02.2024

**CRL.M.A. 5153/2024 (for exemption from filing certified
copies of the annexures)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (**CrPC**) for quashing of the FIR No. 309/2019 dated 02.06.2019, registered at Police Station Punjabi Bagh for offences under Sections 498A/406/34 of Indian Penal Code, 1860 (**IPC**). The FIR was registered on a complaint filed by Respondent No. 2 in the present petition.

4. It is averred that the marriage between Petitioner No. 1 and Respondent No.2 was solemnized on 12.12.2015 as per Hindu

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rites and rituals. A child was born out of the wedlock. However, due to matrimonial discord, some misunderstanding took place between Petitioner No. 1 and Respondent No. 2.

5. Owing to the misunderstandings and temperamental differences, both Petitioner No. 1 and Respondent No.2 started living separately since 21.10.2018.

6. Subsequently, Respondent No.2 made a complaint in Crime Against Women Cell against the petitioner and his family members, which later culminated into above-mentioned FIR No. 309/2019.

7. The present petition is filed on the ground that the matter has been amicably settled between the parties before Delhi Counselling Cell, Tis Hazari Courts, Delhi by way of a settlement dated 18.07.2022 on their own free will without any coercion, undue influence, misrepresentation or mistake. In terms of settlement, out of a total settlement amount for the sum of ₹10,00,000/-, ₹6,00,000/- already stands paid to Respondent No.2, and a Manager's Cheque bearing No. 035170 drawn on HDFC Bank, dated 14.02.2024 for the sum of ₹4,00,000/- is handed over today in Court to Respondent No.2.

8. In terms of the settlement, the parties have agreed that the custody of the child will remain with the mother.

9. Pursuant to the settlement dated 18.07.2022, Petitioner No.1 and Respondent No.2 have already taken divorce by mutual consent.

10. Petitioner No. 1 and Respondent No. 2 are present in person in Court and have been duly identified by the Investigating Officer.

11. Respondent No.2, on being asked, states that she does not wish to pursue the proceedings arising out of the present FIR, and
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has no objection if the proceedings are quashed.

12. Offence under Section 498A of the IPC is non-compoundable and offence under Section 406 of the IPC is compoundable.

13. It is well settled that the High Courts while exercising powers under Section 482 of the CrPC, can compound offences which are non-compoundable under the CrPC on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for the High Courts while accepting settlements and quashing the proceedings. In **Narinder Singh & Ors. V. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Apex Court had observed as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.



29.3. Such a power is ~~not~~ to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

(emphasis supplied)

Similarly, in **Parbatbhai Aahir & Ors v. State of Gujarat & Anr.** reported as (2017) 9 SCC 641, the Hon’ble Apex Court has observed as under :-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

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.”

(emphasis supplied)

14. Keeping in view the nature of the dispute and that the parties have amicably entered into a settlement, this Court feels that no purpose would be served by keeping the dispute alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the considered opinion that it is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

15. However, keeping in mind, the fact that chargesheet has already been filed in FIR No.309/2019 and the State machinery has been put to motion, this Court feels that ends of justice would be served if the petitioners are put to cost.

16. In view of the above, FIR No.309/2019 and all consequential proceedings arising therefrom are quashed, subject to payment of cost of ₹10,000/- (Rupees Ten Thousand Only) by the petitioners, to be deposited with the Delhi Police Welfare Fund, within a period of four weeks from today.

17. It is made clear that the rights of the minor child will not be affected in any manner, whatsoever, by the order passed by this Court.



18. The present petition is allowed in the aforesaid terms.
Pending application(s) is also disposed of.

AMIT MAHAJAN, J

FEBRUARY 19, 2024
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