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

+ **W.P.(CRL) 617/2024**

PAWAN KUMAR

..... Petitioner

Through: Mr. Roopenshu Pratap Singh, Mr.
Manish Sharma and Mr. Amit Mishra,
Advs. with petitioner in person.

versus

STATE OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Sanjay Lao, SC for State with SI
Kusum PS Mandir Marg
Mr. Lakshaya Choudhary, Adv. for
R2 with respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

22.02.2024

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1. The present petition has been filed under Article 226 of the Constitution of India read with Section 482 CrPC seeking quashing of FIR No.151/2020 under Sections 376/354/509 IPC registered at Police Station Mandir Marg and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. Issue notice. The learned SC for the State accepts notice. He submits that since the FIR is an outcome of a matrimonial dispute and the parties have arrived at a settlement, the State has no objection in case the FIR in question is quashed.
3. The petitioner, as well as, respondent no. 2 are present in the Court



and they have been identified by their respective counsel and by the Investigating Officer with SI Kusum PS Mandir Marg.

4. The brief facts of the case are that the marriage between the respondent no. 2 and her husband namely, Neeraj was solemnized on 28.06.2020 according to Hindu Rites and Customs. Out of the said wedlock, no child was born.

5. On account of temperamental issues certain disputes arose between the respondent no. 2 and her husband and they started living separately w.e.f. 06.11.2020. The dispute between the parties also led to the registration of aforesaid FIR against the present petitioner who is a friend of the husband of the respondent no. 2 and the father of her husband namely, Ram Pal who has since expired.

6. During the pendency of the proceedings, the parties were referred to Mediation Centre, Dwarka Courts, New Delhi where they arrived at a settlement, terms whereof were reduced in writing in the form of Settlement dated 13.09.2023, which is annexed as Annexure P2 to the present petition.

7. In terms of the said settlement, the respondent no. 2 and her husband decided to dissolve their marriage by filing a petition for divorce by way of mutual consent. The respondent no. 2 and her husband who are present in Court state that the first motion petition has already been allowed and they shall be filing the second motion petition after the quashing of the present FIR.

8. In terms of the settlement between the parties it was agreed that Mr. Neeraj shall pay a total sum of Rs.3,00,000/- to the respondent no.2 towards full and final settlement of all her claims on account of *streedhan*, permanent alimony, dowry articles, maintenance (past, present and future)



etc. Out of the said amount, a sum of Rs.1,50,000/- has already been paid by Mr. Neeraj to the respondent no.2 at the time of recording of statement in the first motion petition. The balance amount shall be payable by Mr. Neeraj at the stage of recording of statement in the second motion petition.

9. It is also a term of the settlement that the respondent no. 2 shall cooperate for the quashing of the aforesaid FIR.

10. The respondent no.2, on a query put by the Court, states that she has no objection in case the FIR is quashed.

11. At this stage, apt would it be to refer to the observations of the Supreme Court in **Gian Singh v. State of Punjab, (2012) 10 SCC 303: (SCC p. 340, para 58)**

“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.”

12. A coordinate bench of this court in **‘Rifakat Ali & Ors Vs. State & Anr.’** [CRL.M.C. No. 599/2021, decided on 26.02.2021] after referring to three decisions of the Supreme Court, has taken a view that an offence under Section 377 IPC, is though a heinous offence, but where such an offence is invoked in a matrimonial dispute and where the parties have decided to part ways and move ahead in their lives without acrimony against each other, power under Section 482 Cr.P.C. can be exercised even for an offence under Section 377 IPC on the ground that the dispute is private in nature. The



material part of the said decision reads as under:-

“....10. A perusal of the three judgments which shows that the Supreme Court has consistently held that the power under Section 482 CrPC should not be used for quashing heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. since these offences are not private in nature and have a serious impact in society. An offence under Section 377 IPC is a heinous offence and points to the mental depravity of the accused and hence ought not to be quashed by the High Court on the basis of compromise by exercising its jurisdiction under Section 482 CrPC.

11. The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have decided to part ways and get ahead in their lives without having any acrimony against each other. In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 CrPC even for an offence under Section 377 IPC on the ground that the dispute is private in nature.

12. The learned counsel for the petitioners has placed reliance on orders of this Court in CRL.M.C.830/2019 titled as Dinesh Kumar & Ors. v. State & Anr., CRL.M.C.1613/2019 titled as Anmol Katyal & Ors. v. State (NCT of Delhi) & Anr., CRL.M.C. 5216/2018 titled as Gajender Singh & Ors. v. State (NCT of Delhi) & Ors. and CRL.M.C. 4117/2018 titled as Joginder Singh Bote & Ors. v. NCT of Delhi & Anr. In all these cases wife has levelled allegation of the husband committing an offence under Section 377 IPC. This Court has exercised its jurisdiction under Section 482 CrPC and has quashed the FIRs on the basis of the compromise entered into between the husband and wife.

13. It is made clear that this Court is exercising its powers under Section 482 CrPC to quash an offence of Section 377 IPC on the ground that the parties have compromised the matter with each other only because it arises out of a matrimonial



dispute, the allegation has been levelled by wife against her husband of committing an offence under Section 377 IPC and the parties have decided to move ahead in life.”...

13. The analogy in aforesaid decision squarely applies to offence under Section 376 IPC invoked in the present case, inasmuch as, the present case is an offshoot of a matrimonial dispute and the husband and wife (respondent no. 2) have resolved all their matrimonial disputes amicably and have decided to move ahead in life.

14. Considering the fact that the parties have arrived at a settlement and have started staying together, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

15. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

16. Consequently, the petition is allowed and the FIR No.151/2020 under Sections 376/354/509 IPC registered at Police Station Mandir Marg alongwith all other proceedings emanating therefrom, is quashed.

17. The petition stands disposed of in the above terms.

18. Order be uploaded on the website of this court.

VIKAS MAHAJAN, J

FEBRUARY 22, 2024

N.S. ASWAL