



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

%

Reserved on : 20.12.2023

Pronounced on : 21.02.2024

+ **W.P.(CRL) 913/2023 & CRL.M.A. 23436/2023**

MOHIT

..... Petitioner

Through: Mr. Ranbir Singh Kundu, Mr. Ashish Pandey, Mr. Mukesh Kumar, Mr. Shubham Saxena and Mr. Srikant Singh, Advocates.

versus

GOVERNMENT OF NCT DELHI & ANR.

..... Respondents

Through: Mr. Yasir Rauf Ansari, ASC for the State with Mr. Alok Sharma and Mr. Vasu Agarwal, Advocates with SI Garima, P.S. Adarsh Nagar and SI Manisha, P.S. Mukherjee Nagar. Mr. Satya Bhushan and Mr. Sonu Agarwal, Advocates for the complainant with complainant in person.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. By way of this judgment I shall dispose of the present writ petition filed on behalf of the writ petitioner under Article 226 of the Constitution of India and Section 482 Cr.P.C.



2. The instant writ petition has been filed seeking quashing of FIR No. 194/2023 under sections 376/506 IPC registered at Police Station Mukherji Nagar, District North West, Delhi.
3. The factual matrix of the case as per the prosecution is that the complainant came in contact with the petitioner through a Social media site, namely, Facebook. It is alleged that the petitioner called the complainant at his PG in Mukherjee Nagar and on the pretext of promise to marry the complainant, he established physical relation with the complainant on 14.05.2016 which led to the complainant being pregnant. It is further alleged that the petitioner, without the consent of the complainant, got her aborted. It is further alleged that though the complainant asked the petitioner to marry her, he avoided her proposal by citing that he will marry her once he gets the government job. It is further alleged that when the complainant came to know that the petitioner had contacted somewhere else for marriage, she got the present FIR No. 194/2023 under Sections 376/506 IPC registered at Police Station Mukherjee Nagar, District North West, Delhi.
4. During the course of the arguments, learned counsel for the petitioner submitted that during the pendency of the trial, with the intervention of mediation of common friends, and elder persons of the society, the parties have settled the matter amicably in terms of the Settlement dated 23.03.2023. It was further submitted that respondent No.2 had settled the matter amicably with the petitioner and the



settlement/compromise has taken place voluntarily, without any force, pressure or coercion.

5. In the instant case, it would be appropriate to look into the various precedents for quashing of the FIR under the circumstances where the offences are not compoundable. In **Narinder Singh vs. State of Punjab (2014) 6 SCC 466**, after considering the decision in the case of **Gian Singh**, in paragraph 29, the Hon'ble Supreme Court summed up 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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may



improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

6. Furthermore, it is worthwhile to reproduce a passage from ***Shimbhu and Another v. State of Haryana (2014) 13 SCC 318*** wherein, a three-Judge Bench has ruled thus:-

“Further, a compromise entered into between the parties cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the Court cannot always be assured that the consent given by the victim in



compromising the case is a genuine consent, there is every chance that she might have been pressurised by the convicts or the trauma undergone by her all the years might have compelled her to opt for a compromise. In fact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurise her for a compromise. So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at [pic]between the parties in rape cases to be a ground for the Court to exercise the discretionary power under the proviso of Section 376(2) IPC."

7. Reliance can also be placed upon the judgment passed by the Hon'ble Supreme Court in ***Kapil Gupta v. State of NCT of Delhi***, **2022 SCC OnLine SC 1030**, whereby an FIR under Section 376 of IPC was quashed. The relevant portion of the same reads as follows:

"13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

14. The Court has further held that it is also relevant to consider as to what is stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

xxxxxxxxxxxxxxxxxxxxxxxxxxxx



17. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

8. References may also be made to decisions of the Coordinate Bench in ***Lalit Kumar Vats V. State of NCT of Delhi*** in **Crl.M.C.No.2384/2020** decided on 04.12.2020; ***Sandip Kumar Pandey & Ors V. GNCT Delhi & Anr*** in **CRL.M.C. 2001/2021** decided on 08.04.2022 and ***Gaurav & Ors. V. State & Anr.*** in **CRL.M.C. 2212/2021** decided on 21.07.2022, wherein the FIR under Section 376 IPC was quashed in the similar circumstances on the basis of settlement arrived at between the parties.

9. Therefore, considering the above judgments passed by the Hon’ble Supreme Court and Coordinate Bench of this Court, I am of the opinion that this petition deserves to be allowed in the light of the peculiar facts and circumstances of this case.

10. Keeping in view the above facts and circumstances, since the matter has been amicably settled between the parties and misunderstandings between them have been removed, no useful purpose will be served by keeping the case pending. It will be nothing but abuse of the process of law and quashing of this FIR will serve the ends of justice and will also bring joy and harmony in the lives of the parties, further this will encourage them to reconcile their



2024:DHC:1347



relations in the society. Consequently, the present writ petition is allowed, and FIR No. 194/2023 under Sections 376/506 IPC registered at Police Station Mukherji Nagar, District North West, Delhi and the proceedings emanating therefrom shall stand quashed.

11. The present petition stands disposed of accordingly.

RAJNISH BHATNAGAR, J

FEBRUARY 21, 2024

P