



2024:DHC:3275



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: 03rd April, 2024*
+ **CRL.M.C.2443/2024, CRL.M.A. 9313/2024 &**
CRL.M.A. 9314/2024

PARAS @ KARANApplicant
Through: Mr. Ashish Gupta,
Advocate.
Petitioner in person.

versus

THE STATE OF N.C.T OF
DELHI & ANR Respondents
Through: Mr. Mukesh Kumar, APP
for the State alongwith SI
Shweta (P.S. Tilak Nagar).
Respondent No.2 in
person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petition is filed under Section 482 of Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No.605/2023 dated 30.08.2023, registered at Police Station Tilak Nagar, for offences under Sections 376/376(2)(n)/323 of the Indian Penal Code, 1860 ('IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') and all consequential proceedings arising therefrom. Chargesheet was filed against the petitioner for the offences under Sections 325/376/376(2)(n) of the IPC and Section 6 of the POCSO Act.



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2. The present FIR was registered on a complaint given by Respondent No.2 alleging that two years prior to the complaint, she had met the petitioner. It is alleged that the petitioner established sexual relations with Respondent No.2 on the false pretext of marriage for almost two years. It is alleged that the petitioner had also hit Respondent No.2 on one occasion in an inebriated condition.

3. It is pointed out that the petitioner was granted interim bail by this Court by order dated 13.02.2024, in BAIL APPLN. 3837/2023, for getting married to Respondent No.2. The Court had observed that Respondent No.2, who was present in person, had expressed that her marriage with the petitioner was scheduled and she had no objection if the petitioner was granted interim bail.

4. The learned counsel for the petitioner submits that the parties were in a live-in-relationship and wanted to get married. He submits that misunderstandings arose between the parties due to delay in marriage. He submits that Respondent No.2 misunderstood that the petitioner did not intend to marry her and registered the present FIR under pressure from her parents.

5. He submits that Respondent No.2 was above 16 years of age when the relationship started between the parties.

6. He submits that the statement of Respondent No.2 recorded under Section 164 of the CrPC makes it clear that the relationship between the parties was consensual. Respondent No.2 had stated in her statement that she had fought with the petitioner and just wanted to marry him.

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7. He submits that the marriage between the petitioner and Respondent No.2 was solemnised on 21.02.2024 and they are now happily married. He submits that the entire misunderstanding has been cleared between the parties.

8. The present petition is duly supported by the affidavit of Respondent No.2 where she has deposed that she had married the petitioner on 21.02.2024. She has stated that she is residing happily at her matrimonial home. She has further stated that she does not wish to pursue any proceedings out of the present FIR.

9. The learned Additional Public Prosecutor for the State opposes the quashing of the present FIR. He submits that the offences alleged are heinous in nature and ought not to be quashed on the basis of a compromise between the parties.

10. The parties are present in person and have been duly identified by the Investigating Officer.

11. Respondent No.2, on being asked, states that she was in a consensual relationship with the petitioner. She states that the present FIR was registered on a misunderstanding and she has no objection if the same is quashed.

12. Offence under Section 325 of the IPC is compoundable and offences under Sections 376/376(2)(n) of the IPC are non-compoundable. Offence under Section 6 of the POCSO Act is also non-compoundable.

13. In *State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335*, the Hon'ble Apex Court has laid down the test to discern when quashing is appropriate in exercise of the discretion under Section 482 of the CrPC. The relevant portion of the said

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judgment is reproduced hereunder:

“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 extraordinary 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 channelised 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 FIR 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 FIR 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.”

(emphasis supplied)

14. In ***Narinder Singh & Ors. V. State of Punjab & Anr. : (2014) 6 SCC 466***, the Hon’ble Supreme Court has 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.

*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/delicate 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.”

(emphasis supplied)

15. The Hon'ble Apex Court, in ***Kapil Gupta : 2022 SCC***

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Online SC 1030, while quashing an FIR under Section 376 of the IPC, had observed as under:

“12. 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.

X-X-X

15. In both the cases, though the charge-sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since Respondent 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.”

(emphasis supplied)

16. It is not in doubt that the offences under Sections 376/376(2)(n) of the IPC and Section 6 of the POCSO Act of the IPC are heinous in nature and involve mental depravity. Offences of such nature cannot be quashed merely because the victim has settled the dispute. Such offences, in true sense, cannot be said to be offences *in personam* as the same are crimes against the



society.

17. It is relevant to note that the petitioner and Respondent No.2 have gotten married on 21.02.2024 and have been living together happily. It is stated that their families have also accepted the relationship. Since the parties are now married, the allegation that the sexual relationship was established by the petitioner with Respondent No.2 on a false pretext of marriage no longer survives.

18. This Court, in *Ajay Kumar Paswan v. State of NCT of Delhi & Ors. : CRL.M.C. 3203/2022* and *Kundan & Anr. v. State & Ors. : CRL.M.C. 27/2022*, while exercising the power under Section 482 of the CrPC, had quashed the FIRs registered for the offence under Section 376 of the IPC and Section 6 of the POCSO Act as the parties had compromised the matter and gotten married.

19. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent No.2 does not wish to pursue the case arising out of the present FIR.

20. In view of the fact that Respondent No.2 and the petitioner have married and are leading a happy matrimonial life, this Court feels that no useful purpose would be served by keeping the dispute alive and the continuance of the proceedings would amount to abuse of the process of Court.

21. Keeping in mind the facts of the case, I am of the considered opinion that it is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

22. In view of the above, FIR No. 605/2023 and all



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consequential proceedings arising therefrom are quashed.

23. The present petition is allowed in the aforesaid terms.

24. Pending applications are also disposed of.

AMIT MAHAJAN, J

APRIL 3, 2024

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