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

\+ CRL.M.C. 2660/2024

MS KAJAL ..... Petitioner

Through: Mr. Pradeep Chaudhary, Advocate alongwith Petitioner-in-Person.

versus

THE STATE GOVT OF NCT OF DELHI & ANR. ..... Respondents

Through: Mr. Pradeep Gahalot, APP for the State alongwith Ms. Gurdeep Kaur, Ms. Monika & Ms. Kanika, Advocates & SI Tilak Raj (P.S. Ranhola).
Mr. Balram, Advocate for R-2 with R-2-in-Person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **10.05.2024**

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('**CrPC**') seeking quashing of FIR No. 555/2018 dated 23.09.2018, for offence under Section 324 of the Indian Penal Code, 1860 ('**IPC**'), registered at Police Station Ranhola, including all consequential proceedings arising therefrom. The FIR was registered on a complaint given by Respondent No. 2. Charge has been framed against the petitioner for the offence under Section 326 of the IPC.

2. It is submitted that the marriage between the petitioner and

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Respondent No. 2 was solemnized on 20.06.2017 as per Hindu rites and customs. One child was born out of the said wedlock. Thereafter, due to matrimonial discord, the petitioner and Respondent No. 2 started living separately.

3. It is averred that due to some misunderstanding, a quarrel took place between the petitioner and Respondent No. 2. It is alleged that the petitioner slapped Respondent No.2. Thereafter, the petitioner allegedly bit the tongue of Respondent No.2.

4. The present petition is filed on the ground that the matter is amicably settled between the parties by way of Settlement dated 26.09.2023 with the intervention of the Counselling Cell, Family Court, West District, Tis Hazari, Delhi, on their own free will, without any coercion, pressure or undue influence, force, misrepresentation, or mistake. Pursuant to the settlement, Respondent No.2 and the petitioner have already obtained a decree of divorce by mutual consent, and they intend to live their future lives peacefully.

5. The learned counsel for the petitioner submits that Respondent No.2 had only sustained simple injury in the alleged altercation.

6. He submits that the parties have since moved on and have amicably resolved their disputes and want to live their lives peacefully in the future. He further submits that the petitioner undertakes to not indulge in any such activity in the future.

7. It is stated that the terms of the Settlement dated 26.09.2023 have been complied with.

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

9. Respondent No.2, on being asked, states that he does not wish to pursue the present FIR. He submits that the pendency of

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the case would only lead to harassment and has no objection if the proceedings are quashed.

10. Offence under Section 326 of the IPC is non-compoundable.

11. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code 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 High Court while accepting settlement and quashing the proceedings. In ***Narinder Singh & Ors. v. State of Punjab & Anr.*** **: (2014) 6 SCC 466**, the Hon'ble Apex 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:*
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> ***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.*
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> ***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:***

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(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)

12. Similarly, in ***Parbatbhai Aahir & Ors v. State of Gujarat & Anr.*** **: (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:*

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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***

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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)

13. Keeping in view the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no useful purpose would be served by keeping the dispute

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alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

14. In view of the above, FIR No. 555/2018 and all consequential proceedings arising therefrom are quashed.

The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 10, 2024
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