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

+ CRL.M.C. 2289/2022 & CRL.M.A. 9660/2022

AMAR PAL

..... Petitioner

Through: Mr.Ajay Chowdhary, Adv.
along with petitioner in person.

versus

THE STATE NCT OF DELHI AND ORS. Respondents

Through: Ms.Priyanka Dalal, APP with
SI Annu.

R-2 and 3 in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **15.03.2024**

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No.581/2013 registered at Police Station: Hauz Khas, South-District, New Delhi, under Sections 376/363/366 of the Indian Penal Code, 1860 (in short, 'IPC') and Section 6 of the POCSO Act, along with all other proceedings arising therefrom, on the basis of a settlement.

2. The learned counsel for the petitioner submits that the parties, that is, the petitioner and the respondent no.2 and 3 have amicably settled their *inter se* disputes and have entered into a settlement / Memorandum of Understanding dated 10.12.2021.

3. The learned counsel for the petitioner submits that the petitioner and the respondent no.3 are happily married and have also been blessed with three children.

4. I have also interacted with the respondent no.2 and 3, who are



present in person in the Court, and have been duly identified by the Investigating Officer (IO). The respondent no.2 and 3 reaffirm that they do not wish the prosecution to be proceeded with.

5. In view of the above, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR and it would rather be an unnecessary burden on the State exchequer. The continuation of the proceedings would rather act as a hindrance in the happy married life of the petitioner and the respondent no.3.

6. In reaching the above conclusion, I am also guided by the judgment of the Supreme Court in **Kapil Gupta v. State (NCT of Delhi)**, (2022) 15 SCC 44, wherein, it was held as under:

“11. No doubt that the learned ASG is right in relying on various judgments of this Court which reiterate the legal position that in heinous and serious offences like murder or rape, the Court should not quash the proceedings. It will be relevant to refer to paras 29.5 to 29.7 of the judgment of this Court in Narinder Singhv. State of Punjab

“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 307IPC 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 307IPC 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 307IPC 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 307IPC. 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 307IPC 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 307IPC 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.”

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.

13. The Court has further held that it is also relevant to consider as to what is the 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.”

7. A Coordinate bench of this court in the judgement dated 22.05.2023 in CrI.M.C. 2153/2021, titled as ***Vijay Kumar v. The State Govt. of NCT of Delhi & Anr.***, has held as under:

“6. Even though the judicial principles state that High Court must show restraint in quashing the FIR under section 6 POCSO, in the instant case, respondent No. 2 is in love with petitioner and has married him out of her own free will and choice.

7. The respondent No. 2 is a major now and wishes to stay with the petitioner as his wife along with their minor child. In this case, if the FIR is not quashed, three lives will be ruined. I am of the view that the minor child must get the due love and affection and upbringing from both the parents.”

8. Accordingly, the petition is allowed. FIR No.581/2013 registered at Police Station: Hauz Khas, South-District, New Delhi, under Sections 376/363/366 of the IPC and Section 6 of the POCSO Act and all consequential proceedings emanating therefrom against the petitioner are quashed.



9. The pending application is also disposed of.

NAVIN CHAWLA, J

MARCH 15, 2024

RN/ss

Click here to check corrigendum, if any