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

+ **CRL.M.C. 3138/2024**

DANISH & ORS.

.....Petitioners

Through: Mr. Gaurav Kocher, Adv.
along with all the four
petitioners through V.C.

versus

THE STATE GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State.
SI Shiv Dayal Kumar, PS
Harsh Vihar.
Mr. Navman Ahmed, Adv.
for R-2 along with R-2 in
person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

02.08.2024

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1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No.507/2018 dated 18.10.2018, registered at Police Station Harsh Vihar, for offences under Sections 376/377/342/109/34 of the Indian Penal Code, 1860 ('IPC').

2. Chargesheet has been filed against Petitioner No.1 for the offences under Sections 377/506 of the IPC. Petitioner No.2 has been charge sheeted for the offences under Sections 376D/377/342/506 of the IPC. Petitioner Nos. 3 and 4 have been charge sheeted for the offences under Sections 376D/342/109 of the IPC.

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3. It is averred that the marriage between Petitioner No.1 and Respondent No.2 was solemnized on 08.02.2018. Thereafter, due to matrimonial discord, some misunderstandings took place between the parties, due to which Petitioner No. 1 and Respondent No. 2 started living separately. Other petitioners are the family members of Petitioner No.1.

4. Subsequently, the present FIR was registered on the basis of a complaint made by Respondent No.2 alleging that on 12.08.2018, Petitioner No. 2 (that is, the father-in-law of Respondent No.2 at that time) had come inside her room and when she shouted, Petitioner Nos. 3 and 4 (that is, the mother-in-law and sister-in-law of Respondent No.2 at that time) locked the room. It is alleged that Petitioner No.2 raped her and he also threatened her with a pistol.

5. It is also alleged that Petitioner Nos.1 and 2 used to forcefully have unnatural sex with Respondent No.2. It is alleged that Petitioner No.1 had also made innocuous videos of Respondent No.2 and threatened to make the same viral if she told anyone about the incidents.

6. The present petition is filed on the ground that the disputes between the parties have been amicably settled and the parties have entered into Compromise Deed dated 16.03.2024, with the intervention of relatives and family members, on their own free will, without any coercion, pressure or misrepresentation.

7. In terms of the compromise, the parties agreed to withdraw all the pending litigations and cooperate in the quashing of the present FIR and FIR No. 765/2020, that was registered by Respondent No.2 at Police Station Harsh Vihar, for the offences under Section 498A/406/34 of the IPC.



8. It is stated that FIR 765/2020 has already been quashed by this Court by order dated 24.04.2024, passed in CRL. M.C 3137/2024. The entire settlement amount of ₹18 lakhs also stands paid to Respondent No.2.

9. It is averred that the parties have already obtained divorce after resolving their disputes.

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

11. The petitioners have joined the proceedings through video conferencing and Respondent No.2 is present in person in Court. The parties have been duly identified by the Investigating Officer.

12. On being asked, Respondent No.2 states that the complaint was given due to matrimonial acrimony and the advice she received at that stage. She submits that the incidents as alleged did not take place. She states that she has since moved on in life and wishes to live her life peacefully in the future.

13. She further states that she has no objection if the proceedings arising out of the present FIR are quashed and that the pendency of the same is only causing undue harassment and heart burn.

14. The offences under Sections 342/506 of the IPC are compoundable, whereas the offences under Section 376D/377 are non-compoundable.

15. 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 the case of **Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Supreme Court had 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.”

(emphasis supplied)

16. Similarly, in the case of **Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641**, the Hon’ble Supreme Court had observed as under :-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

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 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)

17. It is not in doubt that the offences under Sections 376D/377 of the IPC are heinous in nature and involve mental depravity. Such offences cannot be quashed merely because the



victim has settled the dispute. Such offences, in true sense, are not private in nature.

18. There are grave allegations of rape and unnatural sex against Petitioner No.2, who was the father-in-law of Respondent No.2. There are also serious allegations of unnatural sex against Petitioner No.1, who was the husband of Respondent No.2. The present case, however, as stated by Respondent No.2, is an outcome of the matrimonial dispute between Respondent No.2 and Petitioner No. 1. Respondent No.2 has also specifically stated that the incident as alleged did not actually occur.

19. Insofar as the allegations under Section 377 of the IPC against Petitioner No.1 are concerned, a Coordinate Bench of this Court in the case of **Shyam Kumar & Ors. v. State & Anr. : CRL.M.C. 4953/2022**, placing reliance on the case of **Rifakat Ali & Ors. v. State (Govt. of NCT of Delhi) & Anr. : CRL.M.C. 599/2021**, had quashed the offence of Section 377 of the IPC against the husband on the basis of compromise. The relevant portion of the same is reproduced hereunder:

“5. It is to be noted here that apart from usual Sections invoked in matrimonial disputes, i.e., Sections 498A/406/34 IPC but in the present FIR, Section 377 and Section 354 IPC have also been invoked. Now the matter has been settled between the parties and this Court has to take a call as to whether the FIR in question can be quashed. A co-ordinate bench presided over by HMJ Subramonium Prasad in CRL.M.C. No. 599/2021 tilted ‘Rifakat Ali & Ors Vs. State & Anr.’ decided on 26.02.2021 has taken the following view on a quashing petition filed under the similar circumstances:

‘The power of the High Courts to quash FIRs while exercising its powers under Section 482 CrPC even for offences which are not compoundable under Cr.PC has been settled in a number of judgments.

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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

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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.

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.'

6. So, the view of the co-ordinate bench is that in matrimonial cases, where settlement has taken place, even the offence under Section 377 IPC can be compromised and FIR can be quashed as parties have to move ahead in life. I concur with the said view. Keeping in view the fact that parties have settled all their disputes, hence the offences under Section 377 IPC and Section 354 IPC are also allowed to be quashed to put an end to all bickerings between the parties and allow them to begin a new chapter of their lives."

(emphasis supplied)

20. As far as the allegations against the petitioners are concerned, it is relevant to note that a coordinate Bench of this Court, in the case of *Luv Sharma & Ors. V. State & Anr. : CRL.M.C.1603/2021*, while exercising power under Section 482 of CrPC had quashed the FIR registered for offences under Sections 376/377/354/506/509 of the IPC by the complainant *CRL.M.C. 3138/2024*

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against her in-laws on the basis of compromise entered into between the parties. The relevant portion of the said Judgment is reproduced hereunder:

“4... The present case arises out of a matrimonial dispute. This Court is pained to note that in matrimonial cases, there is an increasing tendency of filing such complaints for an offence under Section 376 IPC against the father-in-law, brother-in-law or any other male member of the family of the husband just to exert pressure on the family of the husband.

5. This Court is exercising its jurisdiction under Section 482 Cr.P.C. to quash the instant FIR in view of the settlement arrived at between the parties and in view of the fact that matrimonial disputes have been settled before the Delhi High Court Mediation & Conciliation Centre and the marriage stands dissolved. Even though there was an allegation of rape against the father-in - law of the complainant, this Court is of the opinion that no useful purpose would be served in continuing with the present proceedings...”

(emphasis supplied)

21. This Court has also previously quashed an FIR registered for the offences under Sections 376/377/498A/406/506/34 of the IPC in the case of ***Hari Ram & Ors. v. State Govt. of NCT of Delhi and Anr. : CRL.M.C. 3143/2024*** where allegations of rape and unnatural sex had been levelled by the complainant against her father-in-law. This Court had also lamented the practice of litigants making a mockery of the judicial system by preferring false complaints of such a serious nature in matrimonial disputes to arm twist the other side and gain leverage.

22. In the present case, as noted above, the complainant has since moved on in her life and the parties have resolved all their matrimonial disputes. In such circumstances, the continuation of proceedings would only cause further undue harassment and



heartburn to the parties.

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

24. In view of the above, FIR No. No.507/2018 and all consequential proceedings arising therefrom are quashed.

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

AMIT MAHAJAN, J

AUGUST 2, 2024

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