



\$~141

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

+ **W.P.(CRL) 1302/2024**

RAJEEV JAIN

..... Petitioner

Through: Mr. Deekshant Kaushik, Mr. Kamal Jindal, Mr. Amit Kumar and Mr. Shobit Katyal, Advocates with Petitioners in person.

versus

STATE (GOVT. OF NCT DELHI) & ANR. Respondents

Through: Mr. Sanjay Lao, Standing Counsel for the State with Mr. Shivesh Kaushik and Mr. Abhinav Arya, Advocates with SI Rahul and SI Sunit, PS: Jagatpuri.
Respondent No. 2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **29.04.2024**

CRL.M.A. 12713/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.A. 12714/2024 (delay of 52 days in refiling)

3. Present application has been filed on behalf of the Petitioner seeking condonation of delay of 52 days in refiling the petition.
4. Issue notice.
5. Learned APP accepts notice on behalf of the State.
6. Respondent No. 2 is present in person and accepts notice.
7. For the reasons stated in the application, the same is allowed.



8. Application stands disposed of.

W.P.(CRL) 1302/2024

9. This petition has been filed on behalf of the Petitioner under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No. 667/2022 dated 21.10.2022 under Sections 451/323/504/506/379 IPC registered at PS: Jagat Puri along with proceedings emanating therefrom.

10. Marriage between the Petitioner and Respondent No. 2 was solemnized on 10.10.2010 according to Hindu Rites and Ceremonies at Delhi. Marriage was duly consummated and out of the said wedlock, one male child was born on 30.01.2013. It is averred in the petition that this was the second marriage of the Petitioner as his first wife had died leaving behind two children. Respondent No. 2 was divorced when she married the Petitioner and had a son from her first marriage. Due to temperamental differences and misunderstandings, Petitioner and Respondent No. 2 started living separately since 20.06.2023. Complaint was filed by Respondent No.2 leading to registration of the present FIR. Respondent No.2 also filed a complaint under Protection of Women from Domestic Violence Act, 2005, where the parties were referred to Delhi Mediation Centre, Karkardooma Courts, Delhi.

11. All disputes have been settled between the parties and a formal settlement was arrived at on 27.07.2023, incorporating the terms of settlement. Copy of the settlement is on record. It was agreed that Petitioner shall pay a total sum of Rs.20 lakhs to Respondent No.2 in full and final settlement of all her claims and the entire amount is stated to have been paid. All other litigations between the parties have been withdrawn. On



26.09.2023, Petitioner executed a gift deed in favour of Respondent No.2 *qua* the first, second and third floors of property bearing No.H-1/3, Krishna Nagar, Delhi in compliance of Clause IV of the Settlement Agreement. Respondent No.2 has executed two sale deeds on 26.09.2023 in favour of the Petitioner of the entire property bearing No.B-12, Maujpur, Shahdara, Delhi in compliance of Clause XII of the Settlement Agreement. The entire settlement amount of Rs.20 lakhs stands paid. Marriage between the parties has been dissolved by mutual consent.

12. Issue notice.

13. Learned Standing Counsel accepts notice on behalf of the State.

14. Respondent No.2 is present in person and accepts notice.

15. Petitioner and Respondent No. 2 are identified by the Investigating Officers SI Rahul and SI Sunit, PS: Jagatpuri. Complainant states that she has settled all her disputes and therefore, in the interest of justice, FIR be quashed. She further states that the allegations in the FIR emanated out of matrimonial disputes and were on account of several misunderstandings at that stage. Learned Standing Counsel states that he has no objection to the quashing of the FIR, in view of the settlement between the parties.

16. The Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer to the question is in the affirmative, the High Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the



disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are as follows:-

“55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

xxx

xxx

xxx

58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the



offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

XXX

XXX

XXX

61. *The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case*



would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

17. This Court in ***Laishram Premila Devi and Others v. State and Others, 2021 SCC OnLine Del 1323*** while dealing with two petitions for quashing of FIRs under Sections 509/506/323/341/354/354A and 34 IPC quashed the FIRs on the ground that the complainant had amicably settled the matter with the Petitioners out of her own free will and it would be an unnecessary abuse of the process of law if the legal proceedings are carried on.

18. In view of the observations of the Supreme Court in the aforementioned judgments, this Court finds no impediment in quashing the present FIR as the parties have amicably resolved their disputes. Since complainant categorically states that she does not wish to pursue the criminal proceedings, chances of conviction are bleak and no purpose will be achieved even otherwise in continuing the proceedings. It would be in the interest of justice and to prevent abuse of process of law that the criminal proceedings are terminated.

19. At this stage, complainant submits that all disputes have been settled between the parties, save and except, payment of a sum of Rs.26,000/- towards water and electricity charges by the Petitioner. Learned counsel appearing on behalf of the Petitioner, on instructions, undertakes that on



receipt of the details of the bills from Respondent No.2, the outstanding amounts shall be cleared within one week. The undertaking is taken on record.

20. Accordingly, FIR No. 667/2022 dated 21.10.2022 under Sections 451/323/504/506/379 IPC registered at PS: Jagat Puri is quashed along with proceedings emanating therefrom.

21. Petition stands allowed and disposed of.

JYOTI SINGH, J

APRIL 29, 2024/shivam