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

+ **W.P.(CRL) 1491/2024**

RAJAN KASHYAP & ANR.

..... Petitioners

Through: Mr. Sunil Kumar, Advocate along
with Petitioners in person.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Mr. Shivesh Kaushik and Mr. Abhinav
Arya, Advocates along with SI Kavish Rana, PS:
Laxmi Nagar.

Mr. Amit Kumar and Mohd. Suhail, Advocates for
R-2 along with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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10.05.2024

CRL.M.A. 14558/2024 (exemption)

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

W.P.(CRL) 1491/2024

3. This is a petition filed on behalf of the Petitioners under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No. 272/2023 dated 04.06.2023 under Sections 420/494 IPC registered at PS: Laxmi Nagar, Delhi along with proceedings emanating therefrom.
4. It is stated in the petition that marriage between Petitioner No. 1 and Respondent No. 2 was solemnized on 21.02.2007 as per Hindu rites and ceremonies at Delhi. Two female children were born out of the said wedlock, who are in the custody of Respondent No. 2. On account of matrimonial discord and misunderstandings between Petitioner No. 1 and



Respondent No. 2, they started living separately since May, 2016. On 01.06.2017, Respondent No.2 lodged an FIR bearing No. 239/2017 under Sections 498A/34 IPC at PS: Shakarpur (East) against the Petitioners. Present FIR was lodged on 04.06.2023 under Sections 420/494 IPC at PS: Laxmi Nagar against the Petitioners. Several other cases were filed between the parties before Karkardooma Courts.

5. It is stated that the learned Principal Judge, Family Court, Karkardooma Courts, referred the parties in case bearing No.1279/2023 titled '*Rajan Kashyap v. Smt. Nisha Kashyap*', to the Mediation Centre, wherein parties finally resolved all their disputes and executed a Settlement Agreement on 20.10.2023, copy of which has been placed on record. Terms of settlement were incorporated in this agreement as per which the parties agreed to seek divorce by mutual consent and Petitioner No.1 agreed to pay a sum of Rs.1.80 crore to Respondent No.2 in instalments, as detailed in the Memorandum of Settlement. Settlement agreement also contains details *inter alia* of custody and visitation rights of the parties qua the two children. Pursuant to the settlement, marriage between Petitioner No. 1 and Respondent No. 2 has been dissolved by mutual consent by a Decree of Divorce dated 30.03.2024, copy of which has been annexed with the petition. Settlement amount has been paid to Respondent No.2, save and except, a sum of Rs. 25 lakhs, which was payable at the time of quashing of present FIR.

6. Learned counsel for the Petitioners states that FIR bearing No. 239/2017 under Sections 498A/34 IPC at PS: Shakarpur (East) against Petitioners has been quashed by a Co-ordinate Bench of this Court in CRL.M.C. 3603/2024 on 06.05.2024. He further states that the entire



settlement amount of Rs.1.80 crores has been paid to Respondent No.2 and since the parties have creased out their disputes, present FIR be also quashed.

7. Issue notice.

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

9. Mr. Amit Kumar, learned counsel accepts notice on behalf of Respondent No.2.

10. Petitioners and Respondent No. 2 are present in Court and are identified by their respective counsels as well as by the Investigating Officer SI Kavish Rana, PS: Laxmi Nagar. Respondent No. 2 states that she has received the entire settlement amount. Marriage between Petitioner No.1 and Respondent No.2 stands dissolved. FIR No. 239/2017 has already been quashed and she does not want to pursue the present complaint and thus has no objection to the FIR being quashed. Learned APP submits that since parties have settled all their disputes and settlement amount has been paid to Respondent No.2, who does not want to prosecute the complaint, no purpose will be achieved in continuing the criminal proceedings.

11. 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.

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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.

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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.”

12. In a later judgment in the case of ***Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466***, the Supreme Court reiterated the proposition and relevant paragraphs are as follows:-

“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.”

13. Parties have mutually settled all their disputes. Settlement amount has been paid to Respondent No. 2, who makes a categorical statement that she



does not wish to pursue the complaint. FIR No. 239/2017, arising out of matrimonial discord, which was really the root cause of the dispute has been quashed by the Co-ordinate Bench of this Court. In these facts and circumstances, the chances of conviction are bleak and it would be in the interest of justice to terminate the criminal proceedings. This Court is fortified in its view by the decisions of the Co-ordinate Benches of this Court in *Jasvinder & Anr. v. The State & Anr., in CRL.M.C. 282/2022*, decided on 24.02.2022 and *Tejvir Ahlawat & Ors. v. The State of NCT of Delhi & Anr., CRL.M.C. 5054/2023*, decided on 19.09.2023, wherein FIRs under similar provisions have been quashed by the Courts, based on mutual settlements between the parties.

14. Accordingly, FIR No. 272/2023 dated 04.06.2023 under Sections 420/494 IPC registered at PS: Laxmi Nagar, Delhi is quashed along with proceedings emanating therefrom.

15. Petition is allowed and disposed of.

JYOTI SINGH, J

MAY 10, 2024/kks