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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4002/2024**
HITESH DHIR & ORS.

.....Petitioner

Through: Mr. Simranjeet Singh, Adv.
versus

STATE OF NCT OF DELHI & ANR.

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP
Mr. Anil Kr. Saini, Adv.
ASI Gayatri, PS BHD, SI Lalit Kumar, PS
Bindapur

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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29.11.2024

1. This is a petition filed under section 482 Code of Criminal Procedure, 1973 seeking quashing of the FIR No. 159/2021, dated 06.03.2021, registered at PS Bindapur, Dwarka, Delhi under Sections 498A/406/376/377/34 of IPC, 1860 and all consequential proceedings emanating therefrom, if any.
2. During the pendency of the proceedings, the parties have arrived at a settlement by executing a Memorandum of Understanding on 18.01.2022 before the Mediation Centre, Dwarka Court, Delhi.
3. As per the settlement, the respondent No.2 has agreed to cooperate in quashing of the FIR No. 159/2021 and the petitioner no.1/husband has to pay a sum of Rs. 20,50,000/- to the respondent No.2/wife in full and final settlement of all her claims. The said amount already stands paid by the petitioner no. 1.
4. The petitioners i.e. Hitesh Dhir (petitioner no. 1), Mr. Ravinder



Kumar (petitioner no. 2), Mr. Rama Dhir (petitioner no. 3) are present through VC and has been identified by their counsel namely, Mr. Simranjeet Singh, Adv.

5. Respondent No.2/complainant is also present through video conferencing mode and has been identified by SI Lalit Kumar, PS Bindapur.

6. The Hon'ble Apex Court in **Kapil Gupta v. State (NCT of Delhi)**, 2022 SCC OnLine SC 1030 has observed as under:

“12. 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.

.....

13. 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.

14. The Court has further held that it is also relevant to consider as to what is 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.

15. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No. 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

16. In both the cases, though the charge sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since the respondent No. 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.

17. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an



accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

7. In offences under Section 376 of IPC, 1860 like rape, the Court must be circumspect while quashing FIR as these are offences against society, even when a compromise has been reached. But at the same time, the Court cannot overlook that both the parties were married and the charges under section 376 of IPC, 1860 could be as a result of matrimonial differences.

8. In the present case, both the parties state that they have entered into the aforesaid settlement out of their own free will, volition and without any threat, force, undue influence or coercion. Even if the proceedings are permitted to be continued, the same will only end in an acquittal as the complainant has already settled the matter and it is highly unlikely that she will depose and give evidence.

9. Since the parties have arrived at a settlement and no disputes are pending, I am convinced that quashing of such proceedings on account of compromise would bring about peace and would secure the ends of justice. This court does not see any fruitful purpose if criminal proceedings are permitted to be prosecuted any further. It is a fit case for quashing. In this view of the matter, there is no reason to continue the proceedings.

10. It is stated that the petitioner has filed a complaint case in Kapurthala. Since I am inclined to quash the FIR No. 159/2021, it is therefore directed that the complaint case filed in Kapurthala must be withdrawn, if not done till date, within 4 weeks and the petitioner furnish a copy of the final order to the father of respondent no. 2.

11. For the reasons noted above, FIR No. 159/2021, dated 06.03.2021,



registered at PS Bindapur, Dwarka, Delhi under Sections 498A/406/376/377/34 of IPC, 1860 and all consequential proceedings emanating therefrom, if any are hereby quashed.

12. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

NOVEMBER 29, 2024 / (MS)

[Click here to check corrigendum, if any](#)