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

+ **CRL.M.C. 4411/2024**

SHRI MADHAV KUMAR

..... Petitioner

Through: Mr. Ajay Kumar, Advocate with
Petitioner in person.

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State with Insp. Vijay Kumar, PS: Mandawali,
Delhi.

Mr. Sandeep Kumar, Advocate for R-2 along with
Respondent No. 2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

28.05.2024

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CRL.M.A. 16757/2024 (Exemption)

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

CRL.M.C. 4411/2024 & CRL.M.A. 16758/2024 (Stay)

3. Present petition has been filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.97/2023 dated 07.02.2023 under Sections 354C/506 IPC registered at PS: Mandawali Fazalpur, Delhi, including proceedings emanating therefrom. At the outset, learned APP for the State, on instructions from the IO, submits that during investigation, Section 67 of Information Technology Act, 2000 ('IT Act') was also added because of the obscene videos allegedly sent by the Petitioner. Charge sheet is yet to be filed.



4. Marriage between Petitioner and Respondent No.2 was solemnized on 22.01.2020 at Vedic Arya Mandal Trust, Ghaziabad, Uttar Pradesh. It is the case of the prosecution that present FIR was registered on a complaint by Respondent No.2 alleging that after the marriage, Petitioner started taking obscene photographs and videos of Respondent No.2 and started sending the same to her and her family members as well as blackmailing/extorting her under a threat to send the same to others in her village and making them viral on social media.

5. It is stated in the petition that Respondent No.2 filed a petition under Section 125 Cr.P.C. being MT Case No.126/2022 as well as a petition seeking divorce under Section 13(1)(ia) of Hindu Marriage Act, 1955 ('HMA Act') bearing No. 327/2022. Petitioner filed a petition under Section 9 of HMA Act. In MT Case No.126/2022, both parties were referred for mediation, where they have amicably settled all their disputes and a Memorandum of Understanding was executed on 13.10.2023 before Delhi Mediation Centre, Karkardooma Courts, Delhi, recording the settlement. Copy of the MoU has been filed along with the petition. It was agreed that parties shall seek divorce by mutual consent and Petitioner shall pay a sum of Rs.2,00,000/- to Respondent No.2, in full and final settlement of all her claims including permanent alimony, stridhan, dowry, maintenance (past, present and future). Out of the said settlement amount, Rs.1,25,000/- was payable in installments and balance was payable at the time of quashing of the FIR. It was further agreed that Petitioner shall not upload the photos and videos of Respondent No.2 on any social media and shall delete them from all his social media accounts.

6. Issue notice.



7. Learned APP accepts notice on behalf of the State.
8. Mr. Sandeep Kumar, learned counsel accepts notice on behalf of Respondent No. 2.
9. Petitioner and Respondent No. 2 are present in Court and are identified by the Investigating Officer Insp. Vijay Kumar, PS: Mandawali. Respondent No. 2 submits that she has no objection to the quashing of FIR as the marriage between her and Petitioner stands dissolved by mutual consent and she has received the balance payment of Rs.75,000/- in Court today by way of demand draft bearing No.004793 dated 15.05.2024 drawn on HDFC Bank, Sitamarhi. All other cases have been withdrawn by the respective parties. Learned APP has no objection to the quashing of the FIR, in view of the settlement between the parties, arising out of a matrimonial discord.
10. 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 predominately 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."



11. In *B.S. Joshi and Others v. State of Haryana and Another*, (2003) 4 SCC 675, the Supreme Court has observed that Section 320 Cr.P.C. would not be an impediment in quashing non-compoundable offences in exercise of inherent powers under Section 482 Cr.P.C., where the facts and circumstances of the case call upon the Court to do so in the interest of justice.

12. Parties have mutually settled all their disputes. In view of the settlement between the parties and the categorical stand of Respondent No.2 that she does not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the present FIR as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated. This Court is fortified with the view of the decisions of the Co-ordinate Benches of this Court in *Tauheed Khan v. State (NCT of Delhi) & Anr.*, CRL.M.C. 3225/2023, decided on 08.05.2023 and *Sandeep v. State of Delhi & Anr.*, CRL.M.C. 2347/2023, decided on 10.04.2023, where the Courts have quashed FIRs under similar provisions, predicated on settlements between the parties, in the interest of justice.

13. Accordingly, FIR No.97/2023 dated 07.02.2023 under Sections 354C/506 IPC and Section 67 of IT Act (added during investigation) registered at PS: Mandawali Fazalpur, Delhi is quashed including proceedings emanating therefrom.

14. Petition is allowed and disposed of. Pending application also stands disposed of.

JYOTI SINGH, J

MAY 28, 2024/shivam