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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6383/2024**

SACHIN KUMAR

.....Petitioner

Through: Dr. Ajay Chaudhary, Mr.
Vikram Singh & Mr.
Bharat Chaudhary, Advs.
along with petitioner in
person.

versus

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

.....Respondents

Through: Mr. Rajkumar, APP for
the State.
SI Mayank Istwal, PS
Kalyanpuri.
R-2 through V.C.
Father of R-2 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.08.2024

CRL.M.A. 24414/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.A. 24415/2024 (for condonation of delay of 28 days in re-filing the petition)

3. For the reasons stated in the application, the same is allowed and the delay of 28 in re-filing the present petition is condoned.
4. The application stands disposed of.

CRL.M.C. 6383/2024

5. The present petition is filed seeking quashing of FIR No.140/2017 dated 08.05.2017 registered at Police Station Kalyanpuri for offences punishable under Sections 377/325/506
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of the Indian Penal Code 1860 ('IPC'), including all consequential proceedings arising therefrom. The said FIR was registered on a complaint filed by Respondent No.2/complainant.

6. It is averred that the petitioner forcefully performed unnatural sexual activities with Respondent No. 2. It is further alleged that the petitioner twisted the left hand of Respondent No. 2 when she refused to engage in any unnatural sexual activity due to which she suffered an injury.

7. The learned counsel for the petitioner submits that the complainant and the petitioner, at the relevant time, were married to each other. He submits that there was matrimonial acrimony between the parties, which led to registration of another FIR being FIR No. 275/2017 for offences under Sections 498A/323/325/377 of the IPC and Sections 3/4 of the Dowry Prohibition Act, 1961. He submits that in the said FIR also, the allegations were made in regard to the same incident which is the subject matter of the present FIR.

8. The present petition is filed on the ground that during the pendency of the proceedings, the parties have settled all their disputes before the Delhi Mediation Centre, Karkardooma Courts, Delhi.

9. Out of the total settlement amount of ₹14.5 Lakhs, an amount of ₹10 Lakhs has already been paid to the complainant and the balance settlement amount of ₹4.5 Lakhs is handed over to the father of the complainant by way of a DD bearing No. 528692 drawn on Punjab National Bank, Trilokpuri, Delhi dated 17.02.2024 in Court today.

10. The learned counsel for the petitioner submits that the parties have also obtained a decree of divorce. He further



submits that the other FIR being FIR No. 275/2017 has been quashed on the ground of settlement by the Hon'ble High Court of U.P. at Allahabad.

11. The complainant is present through video conferencing and has been duly identified by the Investigating Officer.

12. On being asked, she states that the parties have settled their disputes and the present FIR was registered due to matrimonial acrimony which is since settled and the parties have decided to move on in life.

13. Offences under Sections 325/506 of the IPC are compoundable, whereas offences under Sections 377 of the IPC are non-compoundable.

14. 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 proceeding 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)



15. 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)



16. It is not in doubt that the offence under Section 377 of the IPC is a heinous offence involving mental depravity and cannot be quashed though the victim has settled the dispute. Such offences, in true sense, are not private in nature.

17. The present case, however, arises out of a matrimonial dispute and the allegation has been made by the wife against the husband. The complainant, who was present through video conferencing also stated that the allegations were made on a misunderstanding and owing to disputes which had arisen on account of matrimonial discord. The parties have decided to part ways and move ahead in their lives burying the acrimony they had against each other. Therefore, even though the offence under Section 377 of the IPC in general cannot be termed as a private dispute but keeping in view the fact that the allegations are made by the wife against the husband, the same, in the present case, can be called as the personal / private dispute.

18. This Court, in cases ***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.***, while exercising power under Section 482 of CrPC had quashed the FIRs registered for offences under Section 377 of the IPC on the basis of compromise entered into between the husband and the



wife.

19. Keeping in view the nature of the allegations, and considering the fact that the petitioner and Respondent No. 2 have decided to live separately and have settled all their disputes, this Court feels that no useful purpose will 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.

20. In view of the above, FIR No. 140/2017 and all consequential proceedings arising therefrom are quashed.

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

AMIT MAHAJAN, J

AUGUST 20, 2024

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