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

+ **CRL.M.C. 1671/2024**

SUDHIR KHARE & ORS.

..... Petitioners

Through: Mr. Amit Rao, Advocate with
Petitioners in person.

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Shubhi Gupta, APP for the State
with SI Dhananjay Gupta, PS: Rajouri Garden.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **28.02.2024**

CRL.M.A. 6426/2024 (Exemption)

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

CRL.M.A. 6427/2024 (delay of 194 days in re-filing)

3. This is an application seeking condonation of delay of 194 days in re-filing the petition.
4. Issue notice.
5. Learned APP for the State accepts notice.
6. Respondent No. 2 is present in Court and accepts notice.
7. For the reasons stated in the application, the same is allowed and delay of 194 days in re-filing is condoned.
8. Application stands disposed of.



CRL.M.C. 1671/2024

9. This is a petition filed on behalf of the Petitioners under Section 482 Cr.P.C. for quashing of FIR No. 777/2016 dated 03.09.2016 under Sections 498A/406/34 IPC registered at PS: Rajouri Garden, Delhi along with proceedings emanating therefrom.

10. Marriage between Petitioner No. 1 and Respondent No. 2 is stated to have been solemnized on 15.12.2014 as per Hindu rites and ceremonies at Delhi. No child was born out of the said wedlock. On account of matrimonial discord and temperamental differences between Petitioner No. 1 and Respondent No. 2, they have been living separately since 20.02.2016. Respondent No. 2 filed a criminal complaint before CAW Cell against the Petitioners which culminated in registration of the present FIR. Petitioner No. 1 filed a divorce petition being HMA No. 42/2019 under Section 13(1)(ia) of the Hindu Marriage Act, 2005 against Respondent No. 2 before the family court and Respondent No. 2 filed a complaint under Section 12 of the Protection of Women from Domestic violence Act, 2005. Respondent No. 2 also filed a maintenance petition under Section 125 Cr.P.C.

11. During the pendency of the criminal proceedings, parties have amicably resolved their disputes and differences and a Settlement Agreement dated 29.07.2022 was executed between Petitioner No. 1 and Respondent No. 2, whereby Petitioner No.1 and Respondent No.2 decided to live together as husband and wife. All pending cases between the parties stand disposed of as withdrawn.

12. Issue notice.

13. Learned APP accepts notice on behalf of the State.



14. Petitioners and Respondent No. 2 are present and are identified by the Investigating Officer SI Dhananjay Gupta, PS: Rajouri Garden. Respondent No. 2 states that she is now living happily with Petitioner No. 1 as all the matrimonial differences have been amicably resolved and desires to continue living with him. She further states that parties are blessed with a child and it would be in the interest of the child also if the criminal proceedings against the Petitioners are terminated and in this backdrop, gives her no objection to the quashing of the FIR. Learned APP also does not object to the FIR being quashed since parties have resolved their differences and Petitioner No. 1 and Respondent No. 2 are living together happily and peacefully as husband and wife.

15. 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."*



16. The Supreme Court has consistently reaffirmed this view and in the context of matrimonial disputes, it would be relevant to refer to the observations of the Supreme Court in ***Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another, (2013) 4 SCC 58***, relevant paragraphs of which are as follows:-

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.”

17. 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, as she is now living happily with Petitioner No. 1, no useful purpose will be achieved in continuing the



criminal proceedings emanating from the subject FIR and it would be in the interest of justice that the proceedings are terminated. It is settled that where criminal proceedings arise essentially out of matrimonial dispute and parties decide to bury the hatchet, Court must examine the likelihood of criminal prosecution resulting in a conviction. Unless there is an indication of lack of *bona fide* on either side, if the parties are keen to move on with their respective lives and seek closure of the disputes, rejecting the prayer to quash the criminal case would restore acrimony instead of bringing about peace and harmony. This Court is fortified in its view by orders of this Court in *Anubhav Kakkar and Ors. v. State Govt. of NCT of Delhi and Ors.*, **CRL.M.C. 289/2022**, decided on 09.02.2022 and *Manoj Kumar vs. Govt. of NCT of Delhi*, **2023 SCC OnLine Del 2621**, where the Courts have quashed FIRs under similar provisions, predicated on settlement between the parties, in the interest of justice.

18. Accordingly, FIR No. 777/2016 dated 03.09.2016 under Sections 498A/406/34 IPC registered at PS: Rajouri Garden, Delhi is quashed including proceedings emanating therefrom.

19. Petition stands allowed and disposed of.

JYOTI SINGH, J

FEBRUARY 28, 2024/shivam