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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7880/2024**

SHAHBAZ KHAN & ORS.Petitioners

Through: Mr. Abdul Gaffar and
Mr. Danish Khan, Advs.
All the petitioners in
person.

versus

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

Through: Mr. Rajkumar, APP for the
State with ASI Deval, PS
M.S. Park.
Mr. Nakul Sharma, Adv.
for R-2.
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **07.10.2024**

CRL.M.A. 30064/2024 (*exemption from filing certified copies of annexures, documents and from filing typed copies of the dim annexures and also for not leaving proper margins*)

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

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3. The present petition is filed seeking quashing of FIR No. 175/2023 dated 15.06.2023, registered at Police Station Mansarovar Park, for offences under Sections 498A/406/354/509/506/34 of the Indian Penal Code, 1860 ('IPC') and Section 4 of the Dowry Prohibition Act, 1961 (**DP Act**), including all consequential proceedings arising therefrom. The said FIR was registered on a complaint filed by Respondent No. 2.

4. It is averred that the marriage between Petitioner No. 1 and Respondent No.2 was solemnized on 11.03.2022 as per Muslim

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rites and customs. Thereafter, due to matrimonial discord, some misunderstandings took place between the parties, due to which Petitioner No. 1 and Respondent No. 2 started living separately. Other petitioners are the family members of Petitioner No. 1.

5. Subsequently, Respondent No.2 made a complaint against Petitioner No. 1 and his family members, alleging that she was subjected to cruelty by them. It was also alleged that Petitioner No. 1, made forceful and unnatural sexual relations with her. It is alleged that Petitioner No. 2, who is brother-in-law of Respondent No. 2, sexually harassed her. It is also alleged against Petitioner No. 1 that when Respondent No. 2 had left her matrimonial home, one day Petitioner No. 1 met her and threatened her to kill her if she does not follow what he says.

6. The present petition is filed on the ground that the matter is amicably settled between the parties and the parties have obtained Divorce by way of Mubarat dated 08.08.2024, on their own free will, without any force, fraud or undue influence. Respondent No.2 and Petitioner No. 1 intend to live their future lives peacefully.

7. It is stated that entire amount in terms of settlement dated 08.08.2024 has already been paid to Respondent No. 2.

8. The parties are present in person in Court and have been duly identified by the Investigating Officer.

9. On being asked, Respondent No. 2 / complainant states that she does not wish to pursue any proceedings arising out of the present FIR.

10. She further states that she has no objection if the proceedings arising out of the present FIR are quashed since the pendency of the same is only causing undue harassment and heart



burn. She has since forgiven the petitioners and has no grievance against them.

11. Offences under Section 406/506/509 of the IPC are compoundable whereas offences under Sections 498A/354 of the IPC and Section 4 of the DP Act are non-compoundable.

12. It is well settled that the High Court while exercising its powers under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ('BNSS') (erstwhile Section 482 of the Code of Criminal Procedure, 1973) 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 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.

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)



13. Similarly, in the case of **Ra Satbhai 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)



14. It is not in doubt that the offence, as alleged is heinous in nature and involve mental depravity. Such offences cannot be quashed merely because the victim has settled the dispute. Such offences, in true sense, are not private in nature. However, the parties at the relevant time were married to each other. The allegations were made against the husband and other family members. Parties appear to be embroiled in matrimonial acrimony. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent No.2 does not wish to pursue the case. In such a case, in the opinion of this Court, continuation of the proceedings would only cause ill will to fester between the parties and undue harassment to Respondent No.2.

15. As noted above, the complainant has since moved on in her life. In such circumstances, the continuation of proceedings would only cause further undue harassment and heartburn to the parties.

16. Keeping in view the nature of dispute and that the parties have amicably entered into a settlement, this Court feels that no useful purpose would 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 528 of the BNSS.

17. In view of the above, FIR No. 175/2023 and all consequential proceedings arising therefrom are quashed.



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

AMIT MAHAJAN, J

OCTOBER 7, 2024

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