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

+ **CRL.M.C. 2431/2024**

PARDEEP PANDIT

..... Petitioner

Through: Ms. Sushma Sharma, Mr. Girish Kumar Sharma, Mr. Dhruv Kumar Sharma, Advocates along with Petitioner in person.

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Richa Dhawan, APP for State with W/SI Kumari Banti, PS: Vasant Vihar. R-2 and 3 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

27.03.2024

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CRL.M.A. 9296/2024 (exemption)

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

CRL.M.A. 9297/2024

3. This is an application filed by the Petitioner seeking condonation of delay in re-filing the petition.
4. For the reasons stated in the application, the same is allowed and the delay in re-filing the petition is condoned.
5. Application stands disposed of.

CRL.M.C. 2431/2024

6. This is a petition filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No. 95/2019 dated 15.07.2019 under



Section 363 IPC registered at PS: Vasant Vihar including proceedings emanating therefrom. Charge Sheet was filed wherein Sections 366/376 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') were added.

7. As per the case of the prosecution, on 15.07.2019, Respondent No.2's daughter after coming back from school went to buy vegetables at around 04:00 p.m. and did not return. Respondent No.2 had made search for her and he suspected that his daughter aged 15 years had been lured away by an unknown person. Respondent No.2 lodged a missing complaint resulting in registration of present FIR.

8. Learned counsel for the Petitioner states that Petitioner and Respondent No. 3/Prosecutrix have married and are blessed with two children and are living together happily. This fact is confirmed by the Investigating Officer after speaking to the Prosecutrix and her father, both of whom are present in Court. Learned counsel relies on the judgment of this Court in **Arjun Kamti v. State of GNCT of Delhi, through SHO and Others, 2023 SCC OnLine Del 4735**, wherein this Court has quashed FIR under similar provisions based on settlement between the parties and considering that the parties are now living together and have two children of tender age. Relevant paragraphs of the judgment are as follows:-

"15. In Kundan v. State, CRL.M.C. 27/2022 dated 21.02.2022. The Coordinate Bench of this Court has quashed FIR pertaining to offences punishable under section 363/366/376 IPC and section 6 of the Prevention of Children from Sexual Offences Act, 2012 on the ground that the victim/prosecutrix and the accused got married and the victim/prosecutrix delivered a baby boy. The victim/prosecutrix in statement under 164 of the Code also stated that she was in love with the accused and due to opposition of marriage by her parents, she decided to go with the accused. This Court in Jaimeet Singh Kalra v. State, CRL.M.C. 1474/2019 decided on 02.06.2022 also quashed FIR under sections 328/498A/406/376/377/506/34 as registration of FIR originated from matrimonial dispute. This Court in Sunny Kumar @ Mukesh v. the State, CRL.M.C 3561/2022 vide order dated 02.08.2022 has quashed the judicial



proceedings under section 363/366/376 IPC and section 4 of POCSO under the facts & circumstances similar to facts and circumstances of present case.

16. The High Court may also quash criminal proceedings where possibility of conviction is remote and bleak and continuation of criminal case is causing great oppression and prejudice to the accused and extreme injustice would be caused to him and to put an end to criminal case would be appropriate. The Supreme Court in State of Madhya Pradesh v. Laxmi Narayan besides reiterating principles laid down in Gian Singh case observed that while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc. The Supreme Court in Ramgopal v. State of Madhya Pradesh observed that the High Court after considering peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 of the Code in aid to prevent abuse of the process of any Court and/or to secure the ends of justice. It was further observed that the High Court can quash non compoundable offences after considering nature of the offence and amicable settlement between the concerned parties. The High Court can evaluate the consequential effects of the offence and need to adopt a pragmatic approach to ensure that quashing is not paralyze the very object of the administration of criminal justice system. It was further observed that a restrictive construction of inherent powers under Section 482 of the Code may lead to rigid or specious justice which may lead to grave injustice.

17. The Gian Singh in broad perspective prohibits quashing of FIR pertaining to rape. The petitioner and the respondent no. 3 were known to each other and were having liking for each other. The petitioner and the respondent no. 3 married with each other and with the passage of time, they have been blessed with two children who are of tender age. The petitioner and the respondent no. 3 belong to lower strata of the society. The petitioner and the respondent no. 3 are leading happy married life without any discord and trouble between them. The petitioner and the respondent no. 3 have become the part of the main stream of the society. The petitioner and respondent no. 3 have undertaken to build the future life of their children by mutual love, affection and understanding. Under given facts and circumstances of case, there is remote and bleak possibility of conviction and continuance of legal proceedings arising out of FIR bearing no. 0563/2018 shall cause great oppression and prejudice to the petitioner and the respondent no. 3 as they shall be subjected to extreme injustice and as such to put an end to legal proceedings arising out of FIR bearing no. 0563/2018 would be appropriate and be in the interest of



society. The petitioner is also taking care of the respondent no. 3 and children.

18. As observed in Ramgopal v. State of Madhya Pradesh the High Court need to adopt a pragmatic approach to ensure that quashing is not paralyze the very object of the administration of criminal justice system and a restrictive construction of inherent powers under Section 482 of the Code may lead to rigid or specious justice which may lead to grave injustice. The antecedents of the petitioner are clear and never been indulged in criminal activities.

19. After considering all facts and totality of the circumstances, the present petition is allowed and FIR bearing no. 0563/2018 registered under section 363 IPC at P.S. Punjabi Bagh is quashed along with all consequential judicial proceedings under sections 363/376 IPC and under section 6 of Protection of Children from Sexual Offences Act, 2012.”

9. Issue notice.
10. Learned APP accepts notice on behalf of the State.
11. Respondents No.2 and 3 are present in Court and accept notice. They as well as the Petitioner are identified by the Investigating Officer SI Kumari Banti, PS: Vasant Vihar. Respondent No.3 states that she has married with the Petitioner out of her own free will and is living happily with the Petitioner and their two children. Complainant/Respondent No.2 also has no objection to the quashing of the FIR.
12. Learned APP for the State opposes the quashing of the FIR on the ground that the allegations are grave and serious and consent of the Prosecutrix is immaterial. Marriage between the prosecutrix and the accused cannot be a ground to quash an FIR containing allegations of rape.
13. Heard.
14. The Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641***, has reiterated the parameters for exercising inherent jurisdiction



under Section 482 Cr.P.C. for quashing of FIRs and relevant passages are as follows:-

“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.”

15. In ***Narinder Singh and Others v. State of Punjab and Another***, (2014) 6 SCC 466, the Supreme Court observed as under:-

“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.”



16. Co-ordinate Bench of this Court in *Arjun Kamti (supra)* quashed the FIR under similar provisions relying on a judgment of another Bench of this Court in *Kundan and Anr v. State and Ors, CRL.M.C. 27/2022*, dated 21.02.2022, where also the victim and the accused had married and were blessed with a baby boy. On account of opposition of marriage by her parents, victim had decided to go with the accused where they married each other. It is true that rape is a heinous offence and the Supreme Court in *Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303*, has proscribed the Courts from quashing FIRs in heinous offences. However, the fact remains that in the present case, the prosecutrix and the accused have married each other and with the passage of time have been blessed with two children, who are of tender age as in the case of *Arjun Kamti (supra)*, and both belong to lower strata of the society. Petitioner and Respondent No. 3 are living happily with each other without any discord or difference between them and are making efforts to build the future of their children. Continuing the criminal proceedings is likely to disrupt the matrimonial life and consequently the lives of the small children. In my view, therefore, it would be injustice to continue with the proceedings. Courts have from time to time observed that a pragmatic approach is required to be taken in the given facts of the case while exercising inherent powers under Section 482 Cr.P.C. Petitioner has no criminal antecedents and is stated to be taking good care of Respondent No. 3 and the two children.

17. After considering the totality of facts and circumstances, FIR No. 95/2019 dated 15.07.2019 under Section 363 IPC registered at PS: Vasant Vihar is quashed along with the charge sheet dated 17.02.2022 under Sections 366/376 and Section 6 of POCSO Act and proceedings emanating



therefrom.

18. Petition stands allowed and disposed of.

JYOTI SINGH, J

MARCH 27, 2024/kks/shivam