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

+ **CRL.M.C. 8863/2024**

HARI SHANKARPetitioner

Through: Mr. Manav Jain, Adv.
Petitioner in person.

versus

THE STATE NCT OF DELHIRespondent

Through: Mr. Rajkumar, APP for the
State with SI Loveleen, PS
Moti Nagar and SI Amit,
PS Nabi Karim.
R-2 / prosecutrix /
complainant in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **13.11.2024**

CRL.M.A. 34016/2024 (exemption from filing the certified copies of the annexures)

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

CRL.M.C. 8863/2024 & CRL.M.A. 33909/2024

3. The present petition is filed seeking quashing of FIR No. 255/2023 dated 27.05.2023, registered at Police Station Nabi Karim, for offence under Section 376 of the Indian Penal Code, 1860 ('IPC') and FIR No. 258/2024 dated 16.05.2024, registered at Police Station Moti Nagar, for offence under Section 376 of the IPC. Chargesheet has been filed in both the cases.
4. FIR No. 255/2023 was registered on a complaint given by



Respondent No.2 against the petitioner alleging that he had established physical relations with her multiple times on the false pretext of marriage. It was alleged that thereafter, when Respondent No.2 asked the petitioner to marry her, he started ignoring her and stopped taking her calls.

5. Subsequently, FIR No. 258/2024 was registered by Respondent No.2 against the petitioner alleging that he had called her to a hotel on the promise that he will marry her. It was alleged that the petitioner pressurised Respondent No.2 to withdraw the case arising out of FIR No. 255/2023 and forcibly established physical relations with her.

6. It is stated that Respondent No. 2 and the petitioner have married each other on 18.05.2024 according to Hindu rites and rituals. It is stated that they both are happily living together.

7. The present petition is filed on the ground that the parties have amicably settled all the disputes, of their own free will, without any pressure, coercion, or undue influence.

8. The petition is supported by the duly sworn affidavit of Respondent No. 2 where she has stated that she has no objection if the present FIRs and the proceedings arose out of the same are quashed.

9. The parties are present in person before this Court, and have been duly identified by the Investigating Officer.

10. Respondent No. 2, on being asked, submits that she has no objection if the proceedings arising out of the present FIRs are quashed. She states that she is happily married with the petitioner.

11. The learned Additional Public Prosecutor for the State opposes the quashing of the present FIR. He submits that the



offences alleged are heinous in nature and ought not to be quashed on the basis of a compromise between the parties.

12. Offence under Sections 376 of the IPC is non-compoundable in nature.

13. It is well settled that the High Court while exercising its powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') (erstwhile Section 482 of the Code of Criminal Procedure, 1973) can quash offences which are non-compoundable 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)

14. 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)



15. It is not in doubt that the offence under Sections 376 of the IPC is heinous in nature and involve mental depravity. Offences of such nature cannot be quashed merely because the victim has settled the dispute. Such offences, in true sense, cannot be said to be offences *in personam* as the same are crimes against the society.

16. In the present case, however, Respondent No. 2 has got married with the petitioner and they both are living together. This Court, in ***Sh. Yatin Gaba v. The State & Ors. : CRL.M.C. 2/2023*** and ***Bitu Yadav @ Vikas Yadav v. State (NCT of Delhi) & Anr. : 2020:DHC:2712***, while exercising the power under Section 482 of the CrPC, had quashed the FIRs registered for the offence under Section 376 of the IPC as the parties had compromised the matter and subsequently gotten married.

17. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent No.2 is not supporting the case of the prosecution. Noting that Respondent No.2 and Petitioner No.1 have been married since 18.05.2024 and are leading a happy matrimonial life, this Court feels that no useful purpose would be served by keeping the dispute alive and the continuance of the proceedings would amount to abuse of the process of Court.

18. Keeping in mind the peculiar facts of the case, I am of the considered opinion that it is a fit case to exercise discretionary jurisdiction under Section 528 of the BNSS.

19. In view of the above, FIR No. 255/2023 and FIR No. 258/2024 and all consequential proceedings arising therefrom are quashed.

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



21. Pending application also stands disposed of.

AMIT MAHAJAN, J

NOVEMBER 13, 2024

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