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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 8997/2024**

AJAY

.....Petitioner

Through: Mr. Sarvesh Kumar, Adv.
with Petitioner in person.

versus

THE STATE GOVT OF NCT OF DELHI
& ORS.

.....Respondents

Through: Mr. Naresh Kumar
Chahar APP for the State
with SI Sandeep Chauhan
PS- Prem Nagar.
Respondents in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
19.11.2024

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CRL.M.A. 34434/2024 (exemption)

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 the FIR No. 320/2023 dated 18.06.2023 registered at Police Station Prem Nagar, for offence under Section 363 of the Indian Penal Code, 1860 ('IPC') and any consequential proceedings arising therefrom.

4. The FIR was registered pursuant to a complaint given by Respondent No. 3, who is the father of Respondent No.3. It was alleged that Respondent No.2 had left her home on 19.06.2023 to buy certain goods from a shop, but she had not returned home.

Respondent No.2 was recovered and her statement was recorded
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under Section 164 of the Code of Criminal Procedure, 1973 ('CrPC') where she stated that she had voluntarily gone to Hardiwar with the petitioner, who was her neighbour, and gotten married to him.

5. It is stated that Section 366 of the IPC was subsequently added in the FIR after the victim's ossification test was done and her age was found to be within the range of 16-18 years.

6. The case of the petitioner is that the victim had left the company of her family on her own will. The learned counsel for the petitioner submits that Respondent No.2 at that time was 18 years of age and the marriage between the petitioner and the victim had been solemnized as per Hindu rites.

7. Respondent No.2 informed to the SHO of Police Station Prem Nagar that her date of birth is 10.03.2003 and she had gotten married to the petitioner on 19.10.2023.

8. The learned counsel for the petitioner submits that the petitioner and Respondent No.2 were in consensual relationship and they got married as per Hindu rites and ceremonies.

9. He submits that Respondent No.2 at that time was an adult and now there is no ill will between the family members of the parties.

10. He further submits that the petitioner had not kidnapped Respondent No.2 and she had left the company of her parents on her own. He submits that Respondent No.2, in her statement under Section 164 of the CrPC, had also stated that she had gone with the petitioner voluntarily.

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

12. The parties are present in the Court and have been duly



identified by the Investigating Officer.

13. Respondent No.2, on being asked, states that she is happily married to the petitioner and had gone with the petitioner on her own will. She further submits that she was 18 years of age at the time of incident.

14. Respondent No.3 states that he does not wish to pursue any proceedings arising out of the present FIR and he has no objection if the same is quashed.

15. The offences under Sections 363/366 of IPC are non-compoundable in nature.

12. 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 CrPC) 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 Courts exercising jurisdiction under Section 482 of the CrPC for quashing of proceedings on the ground of settlement. In **Narinder Singh & Ors. v. State of Punjab & Anr.** reported as **(2014) 6 SCC 466**, the Supreme Court has 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 **Parbatbhai Aahir & Ors v. State of Gujarat & Anr. reported as (2017) 9 SCC 641**, the Supreme Court has 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 offences under Sections 363 and 366 of the IPC are heinous in nature. Offences of such nature cannot be quashed merely because the victim has settled the dispute. Such offences, in true sense, cannot be termed as offences *in personam* as the same are crimes against the society.

15. The present case, however, seems to have arisen due to family of Respondent No. 2 objecting to the relationship between the petitioner and Respondent No. 2. The victim has categorically stated that she got married with the petitioner consensually. She further submitted that she was 18 years of age at the time of incident. The family of the victim has now accepted the marriage of the petitioner and Respondent No. 2. They are married and are happily residing together.

16. In such a scenario, no case of kidnapping is made out. Furthermore, Respondent No.3 has also stated that he does not wish to pursue the proceedings arising out of the present FIR. Continuance of the proceedings would only cause undue disturbance in the happily married life of the petitioner and Respondent No. 2.

17. Keeping in view the facts of the case and that the petitioner and Respondent No. 2 are happily married, 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 considered opinion that this is a fit case to exercise extraordinary discretionary jurisdiction under Section 528 of BNSS.

18. In view of the above, FIR No.320/2023 and all consequential proceedings arising therefrom are quashed.

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

AMIT MAHAJAN, J

NOVEMBER 19, 2024

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