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

\+ **W.P.(CRL) 3631/2024**

MOHD. SAJID & ORS. .....Petitioners

Through: Mr. R.S. Sharma, Ms. Farzana and Mr. Ajay Kumar Sharma, Advs.
All the petitioners in person.

versus

THE STATE GOVT.OF NCT OF DELHI AND ANR. .....Respondents

Through: Ms.Rupali Bandhopadhya, ASC for the State with Mr. Abhijeet Kumar, Adv. with SI Prince Kumar, PS Mandawali.
Mr. Harsh Kumar, Ms. Shikha Gogoi and Mr. Neel Kumar Sharma, Advs. for R-2.
R-2 in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% 21.11.2024

CRL.M.A. 34807/2024 *(exemption from filing the certified copies of the annexures)*

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(CRL) 3631/2024

3. The present petition is filed seeking quashing of FIR No. 281/2019 dated 27.09.2019, registered at Police Station

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Mandawli Fazal Pur, for offence under Sections 498A/406 of the Indian Penal Code, 1860 ('**IPC**') and Sections 3/4 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 02.12.2017 as per Muslim rites and ceremonies. No child was born out of the said wedlock. 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. Petitioner Nos. 2 to 5 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 and they demanded dowry from her. This led to registration of the aforementioned FIR.

6. The present petition is filed on the ground that the disputes between the parties have been amicably settled by way of Marriage Dissolution Deed dated 08.08.2024, on their own free will, without any coercion, undue influence or undue pressure. By the said Deed, the marriage between Petitioner No. 1 and Respondent No. 2 also stands dissolved.

7. In terms of the settlement dated 08.08.2024, out of the total settlement amount of ₹8,00,000/-, a sum of ₹4,00,000/- already stands paid to Respondent No. 2, and the balance settlement amount of ₹4,00,000/- has been handed over to Respondent No. 2 in Court today by way of Demand Draft No. 518840 dated 04.10.2024 drawn on ICICI Bank.

8. The parties are present in person and have been duly

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identified by the Investigating Officer.

9. Respondent No.2, on being asked, states that she does not wish to pursue the proceedings arising out of the present FIR, and has no objection if the proceedings are quashed.

10. Offence under Section 406 of the IPC is compoundable whereas offences under Section 498A of the IPC and Sections 3/4 of the DP Act are non-compoundable.

11. It is well settled that the High Court while exercising its powers under 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*

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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."*

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(emphasis supplied)

12. 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*

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settled the dispute, involves 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*

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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)

13. 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 528 of the BNSS.

14. In view of the above, FIR No. 281/2019 and all consequential proceedings arising therefrom are quashed.

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

AMIT MAHAJAN, J

NOVEMBER 21, 2024
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