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

+ **W.P.(CRL) 3850/2024**

RAJDEV PRASAD SAFIPetitioner
Through: **Mr. C.M. Thapliyal, Mr. S.P. Paul, Ms. Kanchan Thapliyal & Ms. Kiran Lata, Advocates** alongwith
Petitioner-in-Person.

versus

**STATE GOVT. OF NCT OF DEHI
AND ANR.**Respondents
Through: **Mr. Anand V. Khatri, ASC-CRL for the State** with **Mr. Ashish Rohil, Ms. Neelu & Ms. Razzema, Advocates.**
Ms. Rashmi, Advocates for R-2 alongwith R-2-in-Person.
SI Omkar Mal (P.S. Prasad Nagar).

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
09.12.2024

CRL.M.A. 37093/2024 (exemption from filing certified copies of annexures)

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. 190/2022 dated 16.03.2022 registered at Police Station Prasad Nagar, for offence under Section 363 of the Indian Penal Code,
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1860 ('IPC'), including all consequential proceedings arising therefrom.

4. The FIR was registered on a complaint given by Respondent No. 2/complainant. It is alleged that on 16.03.2022 the complainant's daughter, aged 17 years 5 months, left her home without giving any prior information and did not return. It was further alleged that the complainant's daughter had been lured away by some unknown persons. This incident culminated into the registration of the aforementioned FIR.

5. The learned counsel for the petitioner submits that the petitioner got married to the complainant's daughter after her attaining majority, and a male child was also born out of the said wedlock.

6. It is pointed out that the complainant's daughter expired after the delivery of the child.

7. The present petition is filed on the ground that the parties have amicably settled all their disputes, by way of a Settlement Deed dated 02.12.2024, of their own free will, without any undue influence or duress.

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

9. Respondent No.2, on being asked, states that her daughter left the company of her parents of her own free will. He states that he has since realised the same. He further states that the complaint was initially given on an apprehension that the petitioner had lured her daughter away. He submits that he has no objection if the proceedings arising out of the present FIR are quashed.

10. Offence under Section 363 is non-compoundable in nature.

11. 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 compound 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.

12. In **Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Apex 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. : (2017) 9 SCC 641**, the Hon’ble Apex 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. The Hon’ble Apex Court in **Mafat Lal v. State of Rajasthan : (2022) 6 SCC 589** held as under :

7. The High Court although records all such facts, appears to have been swayed with the fact that the abductee was a minor at the time when she left her home and that the appellant had evaded the investigation and had been successful in keeping away from the process of law for several years. The High Court further proceeded on the assumption that the appellant had actually kidnapped/abducted the minor daughter of the complainant.

8. Before this Court, also the abductee has joined the accused as Appellant 2. Once again similar stand has been taken as was taken before the High Court. Both the appellants have filed separate affidavits. Appellant 2 has specifically stated before the High Court as also before this Court that she had left her parental home on her



own free volition. The appellants are married since December 2006 and have been living happily. They have also been blessed with a son in the year 2014 who would now be 8 years old. No fruitful purpose would be served by relegating the matter for conducting the trial as the same would not be conducive for either of the appellants. It would be a futile exercise.

15. The offence of kidnapping under Section 363 of the IPC as alleged in the present case would necessarily involve enticing or taking away a minor under eighteen years of age. In the present case, the complainant clearly stated that his daughter had left home of her own free will. The abductee also got married to the petitioner and delivered a child. It appears that the complaint was initially given by the family members of the abductee on not agreeing to her relation with the petitioner. The complainant since appears to have realised the mistake.

16. Keeping in view the nature of dispute and the fact that the complainant does not want to pursue the present FIR, 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. 190/2022 and all consequential proceedings arising therefrom are quashed.

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

AMIT MAHAJAN, J

DECEMBER 9, 2024/

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