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

+ **CRL.M.C. 3905/2025**

MAHENDRA SHARMA & ORS.Petitioners

Through: Mr. Abhishek Gautam,
Mr. Surya Gautam, Mr.
Nama Pandey & Mr.
Sunny, Advs. with
petitioners in person

versus

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

Through: Mr. Ajay Vikram Singh,
APP for the State
SI Veena, PS- SP Badli
Mr. Himanshu Maan, Adv.
for R2 with R2 in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **30.05.2025**

1. The present petition is filed seeking quashing of FIR No. 106/2025 dated 30.01.2025, registered at Police Station Samaipur Badli, for offence under Sections 328/376/506 of the Indian Penal Code, 1860 ('IPC').
2. The FIR was registered pursuant to a complaint given by Respondent No. 2 alleging that Petitioner No. 3 established physical relations with her on multiple occasions on the false pretext of marriage and later, refused to marry her.
3. The learned counsel for the petitioner submits that Respondent No. 2 was in romantic relationship with the Petitioner No. 3.
4. The present petition is filed on the ground that the matter has amicably been settled between the parties by way of a Settlement dated 11.05.2025 out of their own free will, without



any undue influence or duress.

5. The parties are present in person and have been duly identified by the Investigating Officer.

6. On being asked, Respondent No. 2 states that she was in consensual relationship with Petitioner No. 3. She submits that the complaint was, however, given when Petitioner No. 3 refused to marry. She submits that certain allegations were made on the basis of advice received at that stage. She further apologizes for the inconvenience caused.

7. Offence under Section 506 of the IPC is compoundable and offences under Sections 328/376 of the IPC are non-compoundable.

8. 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.

9. 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)



10. 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.

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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)

11. The Hon’ble Apex Court, in **Kapil Gupta: 2022 SCC Online SC 1030**, while quashing an FIR under Section 376 of the IPC, had observed as under:

“12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as



to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. **The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.**

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15. In both the cases, though the charge-sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. **It is further to be noted that since Respondent 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.**

(emphasis supplied)

12. The Hon'ble Apex Court in **Pramod Suryabhan Pawar v. State of Maharashtra: AIR 2019 SCC 4010** has held that consent involves an active understanding of the circumstances, actions, and consequences of the proposed act. By placing reliance on the judgment in the case of **Uday v. State of Karnataka: (2003) 4 SCC 46**, the Hon'ble Apex Court observed that when the complainant's consent to enter into sexual relations was not dependent on the promise to marry but was guided by other factors, then an offence under Section 376 of the IPC cannot be made out.

13. A coordinate bench of this under similar circumstances in **I S v. Government of NCT of Delhi & Anr. : 2024:DHC:2667**, noted that when parties have settled the dispute, the chances of conviction are bleak. Accordingly, the court quashed the



proceedings to prevent the abuse of the process of court and to maintain harmony between the parties. The court held as under :

“10. It is pertinent to observe that whensoever a woman makes a reasoned choice to establish physical relations after fully understanding the consequences of such action, the ‘consent’ cannot be said to be based on misconception of fact until and unless there is a clear evidence that a false promise with no intention of upholding the same was given by the maker at the time of making the promise. The said promise must be of immediate relevance and bear a direct nexus to a decision by the woman to engage in sexual act.

Given the nature of relationship between the petitioner and respondent no.2, it does not appear that any such alleged promise was in bad faith or to deceive respondent no.2 but for the subsequent developments in the family of the petitioner. It is pertinent to observe that within a short period during the process of investigation itself, petitioner voluntarily married respondent no.2. In the facts and circumstances, it cannot be construed that the promise made by the petitioner initially was with an intention to not fulfill the same. It cannot be ignored that quashing of proceedings shall result in better harmony in the matrimonial relationship between the parties, rather than continuing with the proceedings under Section 376 IPC. Also, the chances of any conviction in proceedings/trial are remote and bleak in view of settlement between the parties.

11. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court and cause prejudice and disruption in harmony between the parties. Consequently, FIR No.090/2024 under Section 376 IPC registered at P.S.: Pandav Nagar, Delhi and the proceedings emanating therefrom stand quashed.”



14. In the present case, Respondent No.2 has admitted that she was in a consensual romantic relationship with the petitioner. It is clear from the FIR that the petitioner intended to marry Respondent No.2 at one time and he had also introduced her as his wife and talked to a *pandit* for their marriage. As stated by Respondent No.2, the FIR was only lodged on advice because the petitioner refused to marry Respondent No.2 subsequently. It does not seem that the promise to marry was given by the petitioner in bad faith and it appears that the complaint was given just to pressurize the petitioner. This seems to be a classic case of misuse of law. It is also unlikely that the present FIR will result in conviction when Respondent No.2 has stated that she does not wish to pursue the FIR. Under these circumstances, allowing the criminal trial to proceed would cause undue harassment and heartburn to the parties.

15. Thus, in view of the fact that the complainant has herself stated that the parties were in consensual relationship and she does not wish to pursue any proceedings arising out of the present FIR, this Court is of the opinion that it is a fit case to exercise discretionary jurisdiction under Section 528 of the BNSS.

16. In view of the above, FIR No. 106/2025 and all consequential proceedings arising therefrom are quashed.

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

AMIT MAHAJAN, J

MAY 30, 2025/“SS”