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

+ CRL.M.C. 5525/2024

SMT NAGINA & ORS.

.....Petitioners

Through: Mr. Mohd. Shamikh, Adv. with
petitioners in person

versus

STATE OF DELHI & ANR.

.....Respondents

Through: Mr. Nawal Kishore Jha, APP for State
with SI Vishal PS Mayur Vihar
Respondent no.2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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27.01.2025

1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No. 45/2023 under Sections 307/376/506/34 IPC registered at Police Station Mayur Vihar Phase-I and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. Notice in the petition was issued *vide* order dated 22.07.2024.
3. The learned APP for the State submits that since the FIR is an outcome of a matrimonial dispute and the parties have arrived at a settlement, the State has no objection in case the FIR in question is quashed.
4. The case of the prosecution is that a complaint was made by the respondent no.2 making allegations against her husband, as well as, her in-laws which led to the registration of aforesaid FIR.
5. During the pendency of the proceedings, the parties arrived at a settlement, terms whereof were reduced in writing in the form of Settlement



Deed dated 08.07.2024, which is annexed as Annexure P-3 to the present petition.

6. In terms of the said settlement, the parties have amicably resolved all their disputes and have also started living together peacefully.

7. It has been agreed between the parties that they shall cooperate with each other in all possible manner and they shall fulfil all their duties and responsibilities towards each other and their family members.

8. The petitioner no. 4 (husband), petitioner nos. 1 – 3, who are close relatives of petitioner no.4, as well as, respondent no. 2 (wife) are present in the Court and they have been identified by the Investigating Officer SI Vishal PS Mayur Vihar.

9. The respondent no.2, who is present in Court, on a query posed by the Court affirms the factum of settlement and states that she is presently staying with her husband, as well as, her in-laws w.e.f. 12.07.2024. She further submits that she has no objection in case the aforesaid FIR is quashed.

10. In the present case, one of the offences which is alleged against the petitioners pertains to Section 376 IPC. Though, it is a trite law that ordinarily the High Courts must show restraint in quashing FIRs for offences under Section 376 IPC but in peculiar facts and circumstances, the High Courts can quash FIRs in which offences like Section 376 IPC have been involved. In this regard, reference may advantageously be made to a decision of Hon'ble Supreme Court in '**Kapil Gupta v. NCT of Delhi**¹', wherein it was held as under:-

“12. It can thus be seen that this Court has clearly held that

¹ (2022) SCC OnLine SC 1030



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.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

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.

16. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally



exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.”

(emphasis supplied)

11. The present FIR is an outcome of matrimonial discord. It seems that no rape was committed by the petitioner. Further, since the petitioners and respondent no. 2 have amicably resolved their disputes and petitioner no.4 and respondent no.2 are living together as husband and wife, the analogy of ***Kapil Gupta (supra)*** will apply to facts of present case.
12. Having regard to aforesaid peculiar facts and circumstances, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between the parties.
13. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.
14. Consequently, the petition is allowed and the FIR No. 45/2023 under Sections 307/376/506/34 IPC registered at Police Station Mayur Vihar Phase-I alongwith all other proceedings emanating therefrom, is quashed.
15. The petition stands disposed of in the above terms

VIKAS MAHAJAN, J

JANUARY 27, 2025
N.S. ASWAL