

# Vinay Sharma & Anr vs State (Govt. Of Nct Of Delhi) & Anr on 27 February, 2024

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
CRL.M.C. 2187/2019  
VINAY SHARMA & ANR  
Through:

STATE (GOVT. OF NCT OF DELHI)  
& ANR

Through: Mr. Pradeep Gah  
for the State  
Abhishek, PS H  
with R-2 in pe

CORAM:  
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORD

% 27.02.2024 CRL.M.A. 6313/2024 (delay of 250 days in filing the appln. for restoration)

1. For the reasons stated in the application, the delay of 250 days in filing the application for restoration, is condoned.

2. The application stands disposed of.

CRL.M.A. 6312/2024 (for restoration)

3. For the reasons mentioned, the petition is restored to its original number and is taken up for hearing today.

4. The application stands disposed of.

5. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No. 334/2016 dated 18.10.2016, for offences under Sections 498A/406/34 of the Indian Penal Code, 1860 ('IPC') and Section This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2024 at 23:22:04 of the Dowry Prohibition Act, 1961, registered at Police Station Harsh Vihar, including all consequential proceedings arising therefrom. Chargesheet has been filed in the present case. The said FIR was registered on a complaint filed by Respondent No. 2.

6. It is averred that the marriage between Petitioner No.1 and Respondent No.2 was solemnized on 16.01.2011 as per Hindu rites and customs. 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 No. 2 is the father of Petitioner No.1.

7. Subsequently, Respondent No.2 made a complaint to the Commissioner of Police, Police Headquarter, MSO Building, IP Estate, New Delhi against the petitioners, alleging that she was subjected to cruelty by them and harassed for dowry, which later culminated into the aforementioned FIR No. 334/2016.

8. The present petition is filed on the ground that the matter is amicably settled between the parties on their own free will, without any coercion or undue influence. Petitioner No. 1 and Respondent No. 2 have been living together as husband and wife.

9. It is pointed out that an FIR No.51/2016 for offences under Sections 323/354/506/34 of the IPC was also registered by Respondent No.2 against the petitioners, which was quashed on the basis of settlement by this Court by order dated 15.05.2018, in CrI.M.C.2598/2018. The Court in the said order had also noted that the parties had started living in the same house after resolving their differences.

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

11. Respondent No.2, on being asked, states that she does not This is a digitally signed order.

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12. Offence under Section 406 of the IPC is compoundable whereas offences under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act, 1961 are non-compoundable.

13. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code 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 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.

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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)

14. 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 This is a digitally signed order.

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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.

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2024 at 23:22:05 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)

15. 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 Section 482 of the CrPC.

16. However, keeping in mind the fact that the charge sheet has already been filed in the case arising out of FIR No. This is a digitally signed order.

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17. In view of the above, FIR No. 334/2016 and all consequential proceedings arising therefrom are quashed subject to payment of total cost of 5,000/- by the petitioners, to be deposited with the Delhi High Court Legal Service Committee, within a period of four weeks.

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

AMIT MAHAJAN, J FEBRUARY 27, 2024 'hkaur' This is a digitally signed order.

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