

Amit Narwal vs Govt Of Nct Of Delhi & Anr on 3 February, 2023

Author: Swarana Kanta Sharma

Bench: Swarana Kanta Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 750/2023
AMIT NARWAL

Through: Mr. Sanjay Verma, Advocate
petitioner.

versus

GOVT OF NCT OF DELHI & ANR.

Through: Mr. Naresh Kumar Chahar, Advocate
the State with IO.
Mr. Hariom Sharma, Advocate
2 with respondent no. 2.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA
ORDER

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4. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C") has been filed by the petitioner praying for quashing of FIR bearing no. 360/2017 for the offences punishable under Sections 376/506/109/509 of Indian Penal Code, 1860 ("IPC") registered at Police Station South Rohini, Delhi and all other proceedings emanating therefrom.

5. Issue notice. Mr. Naresh Kumar Chahar, learned APP accepts notice on behalf of State.

6. Petitioner is present before this Court and has been identified by his counsel Mr. Sanjay Verma and Investigating Officer (IO) from Police Station South Rohini, Delhi.

7. The brief facts of the case are that on account of love and affection, respondent no. 2 and petitioner became very close with genuine intention to marry from July 2015 to 2016 and had physical relations during the year 2016-2017. The petitioner got some temporary job on 01.12.2017, however, being not satisfied with the same, he deferred the proposal for fixing the marriage till he get a suitable job and earn livelihood. The respondent no. 2 upon coming to know about the same felt deceased and got the above said FIR registered against the petitioner. It is stated that with the consent of relatives of respondent no. 2, marriage of petitioner and respondent no. 2 was performed on 24.05.2021 as per Hindu Vedic Rites.

8. The present FIR was registered against the petitioner for the offence punishable under Sections 376/506/109/509 IPC on the fact that sexual intercourse was done by the petitioner on the false pretext of marriage. It is admitted that the complainant, who is present in the Court today was 19 years of age at the time of incident. It is stated that parties have already married in 2021 and have blessed with a child.

9. It was observed by the Hon'ble Supreme Court in *Gian Singh v. State of Punjab*, (2012) 10 SCC 303, that it is encouraged to quash the FIR in circumstances wherein a compromise has been achieved. The relevant extract of the judgment reads as under:

"61. The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. :

(i) to secure the ends of justice, or

(ii) to prevent abuse of the process of any court.

In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise W.P.(CRL) 1185/2022 between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominating civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is

appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

10. Further, it has been observed in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466 that:

"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, W.P.(CRL) 1185/2022 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."

11. Considering that the prosecutrix was major at the time of incident and now parties have married about two years back and have been blessed with a child six months back. It is stated that in case the FIR is not quashed, the same will adversely affect not only the married life but also the upbringing of the minor child.

12. Today, the complainant/respondent no. 2 who is present in Court states that she has no objection if the FIR is quashed.

13. In view of the above facts that the parties have amicably resolved their differences out of their own free will, and without any coercion, no useful purpose will be served by continuing the proceedings, rather the same would create further acrimony between them. It would thus be in interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto. There is no legal impediment in quashing the FIR in question.

14. Accordingly FIR bearing no. 360/2017, P.S. South Rohini, for the offences punishable under Section 376/506/109/509 of Indian Penal Code, 1860 and all consequential proceedings emanating therefrom are quashed.

15. The present petition stands disposed of.

16. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J FEBRUARY 3, 2023/kss