

# Harshad Goel & Ors vs State Of Nct Of Delhi & Anr on 9 January, 2023

**Author: Anup Jairam Bhambhani**

**Bench: Anup Jairam Bhambhani**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(CRL) 38/2023  
HARSHAD GOEL & ORS.

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Through: Mr. Rajiv K. Nanda, Mr. Shyam S.  
Sharma, Mr. M.M. Khan, Mr.  
Sanjeev Kr. Baliyan and Mr. A.  
Johnson, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Resp

Through: Ms. Nandita Rao, ASC (Criminal)  
GNCTD for State with Mr. Amit  
Peswani, Advocate with SI Ria,  
Hauz Khas.  
Mr. Sunil K. Mittal, Mr. Harsh  
Vashisht, Mr. Abhishek Malhotra  
Mr. Shaurya Dahiya, Advocates  
R-2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI  
ORDER

% 09.01.2023 CRL.M.A. No.412/2023 (Exemption) Exemption allowed, subject to just exceptions.  
The application stands disposed-of.

W.P.(CRL) 38/2023 By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973, the petitioners, who are respectively the ex-husband and in-laws of respondent No. 2/complainant and respondent No. 2, jointly seek quashing of case FIR No. 275/2022 dated 21.07.2022 registered under sections 376/307/506/509/323/406/ 498A/120B/34 of the Indian Penal Code 1860 („IPC for short) at P.S.:

Hauz Khas, New Delhi.

2. The petition is premised on Settlement Deed dated 10.08.2022; and Divorce Decree dated 20.10.2022, which is the culmination of petitions under sections 13B(1) and 13B(2) of the Hindu Marriage Act 1955, whereby the parties had sought dissolution of their marriage by mutual consent.

3. The petition is also supported by affidavits of the petitioners as also of respondent No. 2, alongwith proofs of their I.Ds.

4. All the petitioners are present in court in-person, except petitioners Nos. 5 and 6 who have appeared via video-conferencing since they are presently residing abroad. Respondent No. 2 has also appeared before this court via video-conferencing. Their credentials have been verified and they have also been identified by their respective counsel.

5. The parties have confirmed that no child was born from the wed-lock.

6. The court has interacted with respondent No. 2, who is a young lady, about 27 years of age, and is reading to be a lawyer. She informs the court that her parents as well as her brother, are all practising lawyers. Upon querying respondent No. 2, this court is satisfied that respondent No. 2 is not acting under any coercion or pressure and has consented to the quashing of the FIR of her own free will and volition; and as she put it, "in order to get on with her life".

7. Respondent No. 2 further confirms that she has taken divorce from petitioner No. 1 by mutual consent; and that a settlement deed has been entered into between the parties; and that in full-and-final settlement of all her claims including towards maintenance (present, past and future), stridhan, dowry articles, jewellery, permanent alimony, etc., she has received a sum of Rs.2,00,00,000/- from petitioner No. 1. Respondent No. 2 confirms that all aspects of the settlement have been performed.

8. Insofar as the State is concerned, Ms. Nandita Rao, learned ASC (Criminal) appearing for the State submits, that while it is not the case of the State that respondent No. 2 is acting under any coercion, pressure or unlawful compulsion, the offences alleged are heinous and there is also independent evidence to support the allegations. Having made this submission, Ms. Rao however confirms that the State does not press against the subject FIR being quashed.

9. Further, in line with the law laid down by the Supreme Court in *Gian Singh vs. State of Punjab & Anr.* reported as (2012) 10 SCC 303 as also in *Narinder Singh & Ors. vs. State of Punjab & Anr.*, reported as (2014) 6 SCC 466 this court sees no reason why the subject FIR and all proceedings emanating therefrom should not be quashed.

10. In this behalf, particular reference is made to the following observations of the Supreme Court in *Narinder Singh (supra)*:

"29.7 While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost

complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

(emphasis Supplied) In the present case, it is observed that the FIR came to be registered on 21.07.2022 and the settlement deed was signed between the parties very soon thereafter i.e. on 10.08.2022; well before the investigation was completed.

11. Furthermore, in a very recent decision of the Supreme Court in Kapil Gupta vs. State (NCT of Delhi) reported as 2022 SCC OnLine SC 1030, while setting aside a judgment dated 28.09.2021 of a Co-ordinate Bench of this court which had rejected a quashing petition concerning an offence under section 376 IPC, the Supreme Court has observed as follows:

"15. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No. 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."

The position of respondent No.2/complainant in the present case is nearly identical to that of the complainant in Kapil Gupta (supra); and therefore, harmonizing the requirement for circumspection when quashing an FIR containing serious allegations with the interests of the victim, and being satisfied that respondent No.2 has taken a voluntary and informed decision to avoid further agony to her, this court is of the view that quashing the FIR in the present case would better subserve the sentiments and overall well-being of respondent No.2.

12. Therefore, in light of the settlement between the contesting parties, in the opinion of this court, continuing with the subject FIR and all subsequent proceedings would be an exercise in futility and would not be conducive to peace and harmony between the parties.

13. Accordingly, FIR No. 275/2022 dated 21.07.2022 is quashed. All proceedings arising therefrom also stand closed.

14. However, considering the nature of the allegations, particularly against petitioner No. 2, the quashing of the FIR shall be subject to petitioner No. 2 rendering public service at Rain

Basera/Night Shelter located at Fatehpuri, Old Delhi Railway Station, Chandni Chowk, Delhi by supplying and personally serving dinner to residents of the Rain Basera every night for a period of 02 weeks commencing 12.01.2023. To that end, petitioner No.2 is directed to contact the caretaker of the said night shelter within 07 days.

15. The Investigating Officer is directed to ensure compliance by petitioner No. 2 and to place on record a compliance report in that behalf within 07 days of respondent No. 2 completing the public service hereby directed. The Registry is directed to re-list the matter if the compliance report is either not received; or if the report does not confirm compliance by respondent No. 2.

16. Petition stands disposed of in the above terms.

17. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J JANUARY 9, 2023/ak