

Dikshant Dora vs State & Anr on 28 February, 2024

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 342/2024
DIKSHANT DORA

..... Peti
Through: Mr.Sunil Dalal, Sr. Adv. w
Dr.S.S. Hooda, Mr.Adity
Hooda, Mr.Nikhil Beniwa
Ms.Manisha Sar
Mr.Navish Bhati, Advs.
Petitioner present thro
Father of the petitione
in Court.

versus

STATE & ANR.

..... Resp
Through: Ms.Priyanka Dalal, APP.
SI Gajal Chugh, PS Kris
Nagar.
Mr.Madhav
Mr.Manan Batra, Mr.B.A.
Pamidighantam & Mr.Prat
Ahuja, Advs.
Respondent no.2 present
person.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
ORDER

% 28.02.2024

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No. 03/2019 registered at Police Station: Krishna Nagar, Shahdara District, Delhi under Sections 498A/376/354/109 of the Indian Penal Code, 1860 (in short, 'IPC'), along with all other proceedings arising therefrom, on the basis of settlement.

2. The learned senior counsel for the petitioner submits that the subject FIR was an offshoot of the matrimonial discord and some 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 01/03/2024 at 22:47:49 misunderstanding between the parties, that is, the petitioner and the respondent no.2. He submits that the parties have amicably settled their inter se disputes and have entered into a settlement vide Memorandum of Understanding dated 18.12.2023.

3. The respondent no.2, who is present in Court and has been duly identified by the Investigating Officer (IO), reaffirms the abovementioned settlement and states that she has settled all the disputes with the petitioner out of her own free will and without any coercion. The respondent no.2 submits that she does not wish to pursue the proceedings emanating from the FIR any further and has no objection if the present FIR is quashed.

4. The learned senior counsel for the petitioner has handed over a Demand Draft of Rs. 13,80,000/- (Rupees Thirteen Lakhs and Eighty Thousand Only) to the respondent no.2 as per the terms of the Settlement.

5. The learned APP, on the other hand, submits that the petitioner had been declared as a proclaimed offender and, therefore, chargesheet, including under Section 174A of the IPC, has also been filed against the petitioner. She submits that there are allegations consisting offence under Sections 376/109 of the IPC as well. She submits that such offence are grave in nature and, therefore, the present FIR should not be quashed merely on the basis of the settlement arrived at between the petitioner and respondent no.2.

6. I have perused the contents of the FIR and also the settlement between the parties.

7. In Kapil Gupta v. State (NCT of Delhi), 2022 SCC 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 01/03/2024 at 22:47:49 OnLine SC 1030, the Supreme Court while considering a case of quashing an FIR registered under Section 376 of the IPC, has held as under:

"13. 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.

14. ...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.

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.

16. 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 the respondent No. 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.

17. In that view of the matter, we find that This is a digitally signed order.

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8. In *Jitendra Raghuvanshi v. Babita Raghuvanshi*, (2013) 4 SCC 58, the Supreme Court has held as under:

"14. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In *B.S. Joshi* (2003) 4 SCC 675, this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it 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 01/03/2024 at 22:47:49 has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders."

9. Keeping in view the fact that the dispute arose out of a matrimonial dispute and that the respondent no.2 does not wish to pursue her complaint any further, as also the Settlement arrived at between the parties, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR as the chances of its success would be rather minuscule and it would create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

10. Guided by the principles enunciated by the Supreme Court in its This is a digitally signed order.

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11. As certain terms of the settlement are yet to be implemented, the petitioner, who appears virtually, shall remain bound by the terms of the settlement even on the peril of the contempt.

12. Accordingly, the petition is allowed. FIR No. 03/2019 registered at Police Station: Krishna Nagar, Shahdara District, Delhi under Sections 498A/376/354/109 of IPC, and all consequential proceedings emanating therefrom against the petitioner are quashed.

NAVIN CHAWLA, J FEBRUARY 28, 2024/rv/AS Click here to check corrigendum, if any This is a digitally signed order.

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