

Manvendra Singh Chauhan & Ors vs State Of Nct Of Delhi And Anr on 8 December, 2023

Author: Jyoti Singh

Bench: Jyoti Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 9009/2023

MANVENDRA SINGH CHAUHAN & ORS.

Through: Mr. Kamlesh Kumar V
Sunil Kumar Rathore and Mr.
Advocates along with Petition
versus

STATE OF NCT OF DELHI AND ANR.

Through: Mr. Digam Singh D
State with SI Tarsem, Lega
Manjit Singh, P.S. Kirti N
Mr. Dinesh Singh Bachgoti,
Tomar and Ms. Deepali Sing
along with R-2 in person (c
conferencing).

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

OR

% 08.12.2023 CRL.M.A. 33693/2023 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.225/2018 dated 21.06.2018 under Sections 498A/406/34 IPC registered at PS: Kirti Nagar and consequential proceedings emanating therefrom predicated on a settlement between Petitioners and Respondent No.2.

4. Marriage between Petitioner No.1 and Respondent No. 2 was solemnized on 15.01.2017 according to Hindu rites and ceremonies. No 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 13/12/2023 at 03:26:07 child was born out of the wedlock.

5. On account of temperamental differences and disputes between Petitioner No.1 and Respondent No. 2, they have been living separately since 09.02.2018 and subsequently a complaint was filed by Respondent No. 2 against the Petitioners, which culminated in the present FIR. Respondent No.2 had also filed a case under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('DV Act') against the Petitioners. Charge sheet has been filed and the matter is now at the stage of framing of charges.

6. However, during the pendency of the proceedings, parties have mutually resolved their disputes with the intervention of their well-wishers and relatives and resolved their disputes before Delhi Mediation Centre, Tis Hazari Courts, Delhi. Terms of Settlement have been incorporated in writing in a Settlement Agreement dated 01.04.2021, copy of which has been placed on record as 'Annexure P-3'. As per the terms of settlement, Petitioner No.1 and Respondent No.2 have obtained a Decree of Divorce by mutual consent and the marriage stands dissolved. Certified copy of judgment/decreed dated 17.02.2022 has been filed as 'Annexure P-5'. The other cases between the parties stand disposed of and withdrawn which includes a complaint filed by Respondent No.2 under Section 12 of DV Act. As per terms of settlement, Petitioner No.1 had agreed to pay a total sum of Rs.7,00,000/- to Respondent No.2 in full and final settlement of all her claims including istridhan, past, present and future maintenance, permanent alimony, etc. in two instalments at the time of recording of statements in the proceedings under Section 13B(1) and under 13B(2) of the Hindu Marriage Act, 1955, which stand paid, as per the averments in the petition.

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7. Issue notice.

8. Learned APP accepts notice on behalf of the State.

9. Mr. Dinesh Singh Bachgoti, learned counsel accepts notice on behalf of Respondent No. 2.

10. Petitioners are present in Court and Respondent No.2 has joined through video conferencing and are identified by their respective counsels and Investigating Officer SI Tarsem, Legal Cell West. Respondent No.2 acknowledges having received a sum of Rs.7,00,000/-. Respondent No. 2 submits that terms of settlement have been complied with and she has no objection to the FIR being quashed to put a quietus to the litigation. Learned APP appearing on behalf of the State also has no objection to quashing of the present FIR in view of the settlement between the parties.

11. The Supreme Court in *Gian Singh v. State of Punjab and Another*, (2012) 10 SCC 303, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer to the question is in the affirmative, the High

Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are as follows:-

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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 13/12/2023 at 03:26:08 "58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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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 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 13/12/2023 at 03:26:08 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 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 predominatingly 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."

12. The Supreme Court has consistently reaffirmed this view and in the context of matrimonial disputes, it would be relevant to refer to the observations of the Supreme Court in Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another, (2013) 4 SCC 58, relevant paragraphs of which are as follows:-

"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 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 13/12/2023 at 03:26:08 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 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."

13. In *B.S. Joshi and Others v. State of Haryana and Another*, (2003) 4 SCC 675, the Supreme Court has observed that Section 320 Cr.P.C. would not be an impediment in quashing non-compoundable offences in exercise of inherent powers under Section 482 Cr.P.C. where the facts and circumstances of the case call upon the Court to do so in the interest of justice. It has been held in various judgments that power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or interchangeable in law. In *Shiji alias Pappu and Others v. Radhika and Another*, (2011) 10 SCC 705, considering the exercise of inherent powers by the High Court under Section 482 Cr.P.C. in the context of non-compoundable offence observed that merely because an offence is non-

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the power is not exercised that the Court would quash the proceedings.

14. In view of the observations of the Supreme Court in the aforementioned judgments, this Court finds no impediment in quashing the present FIR as the parties have amicably resolved their disputes and terms of settlement have been complied with. Since Respondent No. 2 has categorically stated that she does not wish to pursue the criminal proceedings, the chances of conviction being bleak, no purpose will be achieved in keeping the proceedings pending and it would be in the interest of justice that proceedings are terminated so that peace and harmony establish between the parties to the lis continues. This Court is fortified in its view by the judgment of this Court in *Abhyuday Sharma and Others v. State NCT of Delhi and Another*, 2023 SCC OnLine Del 5061 and *Jai Kumar and Others v. State (Govt. of NCT of Delhi) and Another*, 2023 SCC OnLine Del 4641. Accordingly, FIR No.225/2018 dated 21.06.2018 under Sections 498A/406/34 IPC registered at PS: Kirti Nagar is quashed including all proceedings emanating therefrom.

15. Petition stands allowed and disposed of in the aforesaid terms.

DECEMBER 08, 2023/kks

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