

Naveen Kalra And Ors vs State And Anr on 27 February, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1586/2024
NAVEEN KALRA AND ORS

Through: Mr. Puja Kumar Sin
Mr. Rahul Bharati, Advocates
person.

STATE AND ANR.

Through: Mr. Digam Singh Da
State with SI Abhishek, PS:
Mr. Ritesh Oberoi, Advocate
person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

% 27.02.2024

1. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.508/2017 dated 02.09.2017 under Sections 498A/406/34 IPC registered at PS: Rajouri Garden and consequential proceedings emanating therefrom predicated on a settlement arrived between the Petitioners and Respondent No.2.

2. Marriage between Petitioner No.1 and Respondent No. 2 was solemnized on 14.10.2016 according to Hindu rites and ceremonies at Delhi. No child was born out of the wedlock. On account of temperamental differences and disputes between Petitioner No.1 and Respondent No. 2, they have been living separately since 10.12.2016 and subsequently a complaint was filed by Respondent No.2 against the Petitioners, which culminated in registration of the present FIR.

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3. It is stated in the petition that parties have resolved all their disputes and a Settlement Agreement has been executed on 26.08.2022 before Delhi Mediation Centre, Tis Hazari Courts, Delhi. Copy of the Settlement Agreement has been appended to the petition. It was agreed between Petitioner No. 1 and Respondent No. 2 that they will take requisite steps for obtaining a divorce by mutual consent

and Respondent No. 2 shall co-operate in quashing of the present FIR. 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 22.05.2023 has been filed. It was further agreed that Rs.11,00,000/- shall be paid by Petitioner No.1 to Respondent No. 2 in three instalments, out of which the first instalment of Rs.3,00,000/- was to be paid at the time of recording of statements during First Motion under Section 13B(1) of the Hindu Marriage Act, 1955, the second instalment of Rs.4,00,000/- was to be paid at the time of recording of statements during Second Motion under Section 13B(2) of the said Act and the balance amount of Rs.4,00,000/- was payable at the time of quashing of the FIR. The settlement amount is stated to have been paid, save and except a sum of Rs. 4,00,000/-.

4. Issue notice.

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

6. Mr. Ritesh Oberoi, learned counsel accepts notice on behalf of Respondent No. 2.

7. Petitioners and Respondent No.2 are present in Court and are identified by their respective counsels and Investigating Officer SI Abhishek, PS: Rajouri Garden. Respondent No.2 acknowledges having received the balance sum of Rs.4,00,000/- in Court today by way of two This is a digitally signed order.

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8. 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:-

"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 This is a digitally signed order.

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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 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 This is a digitally signed order.

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9. 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 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 to settle disputes amicably. This is a digitally signed order.

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10. 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-compoundable under Section 320 Cr.P.C. is no reason by itself for the High Court to refuse the exercise of its inherent power for quashing an FIR. There is no doubt on the legal proposition that the inherent powers have to be sparingly exercised with great caution and only where the Court comes to a conclusion that there would be manifest injustice or abuse of the process of the Court if the power is not exercised that the Court would quash the proceedings.

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11. 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. As Respondent No. 2 categorically states that she does not wish to pursue the criminal proceedings, the chances of conviction of the

Petitioners are bleak and thus no purpose will be achieved in keeping the proceedings pending and instead it would be in the interest of justice that the criminal proceedings are terminated. This Court is fortified in its view by the orders of this Court in Wasim and Others v. State and Another, 2023 SCC OnLine Del 4529 and Piyush Jain and Others v. State and Another, 2023 SCC OnLine Del 3140.

12. Accordingly, FIR No.508/2017 dated 02.09.2017 under Sections 498A/406/34 IPC registered at PS: Rajouri Garden is quashed including all proceedings emanating therefrom.

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

JYOTI SINGH, J FEBRUARY 27, 2024/shivam This is a digitally signed order.

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