

Hariom Yadav @ Akash Yadav @ Bhupender vs The State Govt Of Nct Of Delhi & Anr on 19 May, 2022

Author: Yogesh Khanna

Bench: Yogesh Khanna

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 1160/2022
HARIOM YADAV @ AKASH YADAV @ BHUPENDER

Through: Mr.Manish, Advocate.
versus

THE STATE GOVT OF NCT OF DELHI & ANR. Respondent
Through: Ms.Jyoti Babbar, Advocate
Mr.Rajesh Mahajan,
with SI Prabhakaran
Mr.Pradeep Kumar Mishra
for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA
ORDER

% 19.05.2022

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(CRL) 1160/2022

3. This petition is filed for quashing of FIR No.264/2021 under Sections 313/406/420/493/498A IPC registered at police station Dabri, District Dwarka, Delhi and the proceedings emanating therefrom.

4. The marriage between the petitioner and complainant/ respondent No.2 was solemnized on 06.06.2017 according to Hindu rites and ceremonies at Delhi. No issue was born from the wedlock. The petitioner has two children from his previous marriage.

5. On 09.05.2018 the Respondent no. 2 filed a petition under Section 9 HMA bearing HMA Case. No.1240/2018 against the petitioner before the Family Court, South West Dwarka Court. Delhi and the same has been withdrawn on 10.12.2021. She also filed a petition under Section 125 Cr.P.C. bearing MT.Case. No.433/2018 against the petitioner before the Family Court, South West Dwarka Court, Delhi and the same was withdrawn on 13.03.2020.

6. On 17.09.2018 the Respondent no. 2 filed a complaint under Section 156(3) Cr.P.C. bearing C.C. No.34917/2018 against the petitioner before the Ld. M.M., South West Dwarka Court, Delhi and the same was disposed of on 08.03.2022.

7. The present FIR was lodged on 03.05.2021 at the instance of respondent No.2. However, during the proceedings of Execution petition vide Case No.123/2021 in the Court of Ld.Principal Judge Family Courts, Dwarka Court, Delhi, the case was referred to counselling cell on the request of petitioner and respondent no. 2 wherein the parties settled their dispute mutually and amicably, without any coercion from any corner and the petitioner agreed to pay a total sum of Rs.11,50,000/- towards full and final settlement to respondent No.2.

8. The amount of Rs.6.00 lacs has already been paid to respondent No.2 and she has withdrawn all the above litigations.

9. The complainant/respondent No.2 is present, has been duly identified by the Investigating Officer, says the matter has been settled with the petitioner and she has no objection if the FIR is quashed and that she has received the balance amount by way of a demand draft in her favour bearing No.509481 dated 02.04.2022 of Rs.5,50,000/- drawn on ICICI Bank and has no claim left against the petitioner towards alimony, maintenance - past, present and future, stridhan, and dowry articles etc.

10. The learned counsel for ASC for the State has also no objection, if this petition is allowed, but says Section 313 IPC is also involved. However, this issue has already been decided and disposed of. The affidavits of parties are on record.

11. In *Narinder Singh v. State of Punjab* (2014) 6 SCC 466, wherein it was observed as under :

"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, 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.

12. In Bhoop Singh & Ors. V. State & Ors. CrI.M.C.3877/2014 decided on 28.03.2016, which observed as under :

In the light of the aforesaid, this Court is of the view that notwithstanding the fact that the offence under Section 313 IPC is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant. Apparently, the penal Section 313 Cr.P.C. has been added in the present case on the basis of allegations but there is no evidence on record.

13. Similarly, in the present case no cogent evidence is coming qua Section 313 IPC, thus, considering the above settlement between the parties, there is no impediment in quashing of the FIR as complainant has settled all disputes and has received the settled amount from the petitioner. In view of the above, there is no use to continue with the proceedings against petitioner as it would never entail in conviction of petitioner.

14. Accordingly, the petition is allowed. Consequently, FIR No.264/2021 under Sections 313/406/420/493/498A IPC registered at police station Dabri, District Dwarka, Delhi and the proceedings emanating therefrom are quashed. Pending application, if any, also stands disposed of. No order as to costs.

YOGESH KHANNA, J.

MAY 19, 2022 VLD