

# Shakun Kumar & Ors vs The State (Nct Of Delhi) Through Sho ... on 31 May, 2024

**Author: Navin Chawla**

**Bench: Navin Chawla**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 4708/2024

SHAKUN KUMAR & ORS.

..... Pet

Through: Mr.Dushyant Tiwari, Adv.

versus

THE STATE (NCT OF DELHI) THROUGH SHO

CONCERNED AND ANR

..... Resp

Through: Mr.Aman Usman, APP with

W/ASI Suvidya

Ms.Naina Walia, Adv. for

along with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% 31.05.2024 CRL.M.A. 17600/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. 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. 486/2022 registered at Police Station: Najafgarh, Delhi under Sections 376/506/509/34 of the Indian Penal Code, 1860 (in short, 'IPC'), along with all other proceedings arising therefrom, on the basis of a settlement.

3. Issue notice.

4. Notice is accepted by Mr.Aman Usman, learned APP and by Ms.Naina Walia, Advocate on behalf of the respondent no.2.

5. The learned counsel for the petitioners and the respondent no.2 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 01/06/2024 at 02:23:04 submit that petitioner no.1 and the respondent no.2 were in a relationship which unfortunately could not fructify into a marriage, due to which the above FIR was filed.

6. The learned counsel for the petitioners submits that the parties have amicably settled all their inter se disputes and have executed a Memorandum of Settlement dated 16.04.2024.

7. The respondent no.2, who is present in person and has been duly identified by the Investigating Officer (IO), reaffirms that she has settled all the disputes with the petitioners out of her own free will and without any coercion. The respondent no.2 submits that since she has moved on with her life, she has no objection if the present FIR is quashed.

8. On the other hand, the learned APP opposes the present petition stating that the testimony of the victim already stands recorded before the learned Trial Court and therein she has supported the case of the prosecution.

9. I have perused the testimony of the victim which has been recorded before the learned Trial Court. The same suggests that they were in a relationship which could not, unfortunately, culminate into marriage, which led to the filing of the above FIR.

10. I have perused the contents of the FIR and also interacted with the respondent no.2.

11. In *Kapil Gupta v. State (NCT of Delhi)*, 2022 SCC OnLine SC 1030, the Supreme Court while considering a case of quashing of 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 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 01/06/2024 at 02:23:04 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 though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one This is a digitally signed order.

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12. 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 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 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 01/06/2024 at 02:23:05 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. Keeping in view the fact that the disputes between the parties arose out of misunderstanding, and the fact that respondent no.2 does not wish to pursue her complaint any further, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR as it would create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

14. Guided by the principles enunciated by the Supreme Court in its judgments in Kapil Gupta (Supra); Jitendra Raghuvanshi (Supra); Gian Singh v. State of Punjab, (2012) 10 SCC 303; Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur & Ors. v. State of Gujarat & Ors., (2017) 9 SCC 641; and State of Haryana & Ors. v. Bhajan Lal & Ors., 1992 Supp (1) SCC 335, this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR and all the proceedings emanating therefrom.

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15. Accordingly, the petition is allowed. FIR No. 486/2022 registered at Police Station: Nazafgarh, Delhi under Sections 376/506/509/34 of IPC and all consequential proceedings emanating therefrom against the petitioners are quashed.

NAVIN CHAWLA, J MAY 31, 2024/ns/am Click here to check corrigendum, if any This is a digitally signed order.

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