

Ms Rajesh Wadhwa And Ors vs The State Nct Of Delhi And Anr on 13 September, 2024

Author: Subramonium Prasad

Bench: Subramonium Prasad

\$-36 & 39

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 7271/2024 & CRL.M.A. 27762/2024
MS RAJESH WADHWA AND ORS.

Th

ve

THE STATE NCT OF DELHI AND ANR.

Through: Mr. Shoaib Haider

Mr. Varun Gupta (

Advocate for R- 2

Respondent in per

Agarwal)

SI Dilsukh, D-660

+

CRL.M.C. 7302/2024 & CRL.M.A. 27859/2024
MS NAVEEN AGARWAL AND ORS.

Th

ve

THE STATE NCT OF DELHI AND ANR.

Through: Mr. Shoaib Haider

Mr. G.S. Panwar,

SI Dilsukh, D-660

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

OR

% 13.09.2024

1. CRL.M.C. 7271/2024 has been filed by the Petitioners for quashing 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 19/09/2024 at 07:15:24 FIR No.148/2018 dated 04.05.2018, registered at Police Station K.N. Katju Marg for offences punishable under Sections 323/354/354B/506/509/34 IPC. It is alleged in the FIR by Respondent

No.2/Complainant that the Petitioner/Accused, who is her landlord, has outraged her modesty and, therefore, on the complaint of Respondent No.2/Complainant, the present FIR has been registered against the Petitioner. The contents of FIR are not being repeated here.

2. CRL.M.C. 7302/2024 has been filed by the Petitioner for quashing FIR No.146/2018 dated 03.05.2018, registered at Police Station K.N. Katju Marg for offences punishable under Sections 323/354/354B/451/506/509/34 IPC. It is alleged in the FIR by Respondent No.2/Complainant that the Petitioner/Accused, who is her tenant, has outraged her modesty and, therefore, on the complaint of Respondent No.2/Complainant, the present FIR has been registered against the Petitioner. The contents of FIR are not being repeated here.

3. The Petitioners in CRL.M.C. 7271/2024 are the landlords and Petitioners in CRL.M.C. 7302/2024 are the tenants.

4. A perusal of the above two FIRs reveals that these are cross complaints. It is stated that the parties have settled all their disputes and have decided to live peacefully.

5. Unfortunately, it is now becoming a trend to register FIRs alleging offences under Sections 354, 354A, 354B, 354C, 354D IPC either to force a party to withdraw a complaint instituted against them or to arm twist a party. Offences under Sections 354, 354A, 354B, 354C, 354D IPC are serious offences. Such allegations have the effect of tarnishing the image of the person against whom such allegations are made. Allegations regarding these 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 19/09/2024 at 07:15:24 offences cannot be made at a drop of a hat. This practice is an abuse of the process of law. The instant case is a classic example as to how frivolous allegations under Section 354 and 354A have been levelled by the parties against each other. A land-lord tenant dispute has been given a colour of outraging modesty of women and even children have not been spared and have been brought in as victims. This court can take judicial notice of the fact that the police force is very limited. Police personnel have to spend time in investigating frivolous cases. They have to attend court proceedings, prepare Status Report etc. The result is that investigation in serious offences gets compromised and accused escape because of shoddy investigation. Time has come to initiate action against persons who file frivolous complaints under Sections 354, 354A, 354B, 354C, 354D IPC etc. only for ulterior purpose. It is also unfortunate to see that lawyers are advising and instigating parties to file such frivolous cases. Time has come to sensitize lawyers as well so as to ensure that the process of law is not abused.

6. In the present case, the possibility of conviction has become very remote because the Parties have entered into a settlement. The power of the High Courts to quash FIRs while exercising its powers under Section 482 Cr.P.C even for offences which are not compoundable under Cr.P.C. has been settled in a number of judgments. In *Gian Singh v. State of Punjab & Anr*, (2012) 10 SCC 303, the Apex Court has observed as under:

"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 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 19/09/2024 at 07:15:24 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 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 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 19/09/2024 at 07:15:24 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 proceedings."

7. All the Parties are present in Court today. The Petitioners in both the petitions have been identified by their Counsel and the Investigating Officer. The Respondent No.2/Complainants in both the petitions have been identified by the Investigating Officer. The Respondent No.2/Complainants in both the petitions state that they have settled all the disputes with the Petitioners out of their own free will, without pressure, coercion or undue influence and do not want to pursue the present case any further and request that the present FIRs and the proceedings emanating therefrom may be quashed. The parties undertake that they will remain bound by the settlement arrived at between them and the proceedings recorded before this Court.

8. In view of the fact that cross complaints have been filed by the parties and now they have sought to get the FIRs quashed on the basis of settlement arrived at between them and in view of the law laid down by the Supreme Court in Gian Singh vs. State of Punjab, (2012) 10 SCC 303, this Court is inclined to exercise its jurisdiction under Section 482 Cr.P.C to quash the FIRs. Accordingly, FIR No.148/2018 dated 04.05.2018, registered at Police Station K.N. Katju Marg for offences punishable under Sections 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 19/09/2024 at 07:15:24 323/354/354B/506/509/34 IPC and FIR No.146/2018 dated 03.05.2018, registered at Police Station K.N. Katju Marg for offences punishable under Sections 323/354/354B/451/506/509/34 IPC and all the proceedings emanating therefrom are hereby quashed.

9. However, this Court is of the opinion that the Parties cannot be left scot free for filing false cases and get away with these cases by entering into a settlement which is the abuse of the process of law and the same leads to wasting the precious judicial time.

10. Accordingly, this Court is inclined to impose cost on the petitioners.

a) In CRL.M.C. 7271/2024 each petitioner is directed to deposit a sum of Rs.10,000/- with the "Armed Forces Battle Casualties Welfare Fund"

b) In CRL.M.C. 7302/2024 each petitioner is directed to deposit a sum of Rs.10,000/- with the "Armed Forces Battle Casualties Welfare Fund"

11. Copy of the receipts shall be given to the concerned Investigating Officer and the same be also filed with the Registry to show compliance of the order.

12. The petitions stand disposed of in the above terms, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J SEPTEMBER 13, 2024 Rahul 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 19/09/2024 at 07:15:24