

Dinesh Murugesan & Ors vs State & Anr on 19 September, 2022

Author: Swarana Kanta Sharma

Bench: Swarana Kanta Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 476/2020

DINESH MURUGESAN & ORS.

Through: Mr. Gaurav Puri, Advoc

versus

STATE & ANR.

Through: Mr. Ritesh Kr. Bahri,
with SI Akashdeep, P.S.
Colony.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

% 19.09.2022

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioners praying for quashing of FIR bearing no. 191/2019 registered at Police Station Amar Colony, Delhi for offences punishable under Sections 376/377/417/420/468/469/120B of the Indian Penal Code, 1860.

2. Notice. Mr. Ritesh Kumar Bahri, learned APP accepts notice on behalf of the State.

3. Petitioners are present before this Court and have been identified by their counsel Mr. Gaurav Puri and Investigating Officer (IO) SI Akashdeep, Police Station, P.S. Amar Colony, Delhi.

4. In the present case, the allegations are levelled by the respondent no. 2 who was married to petitioner no. 1 pursuant to registration of FIR 191/2019 under Sections 376/377/417/420/468/469/120B of IPC, P.S. Amar Colony, the matter was settled vide Memorandum of Understanding (MoU) dated 16.09.2019 which has been annexed as Annexure B to petition. The parties were also divorced vide a decree of divorce dated 19.11.2009 which is annexed as Annexure D to petition. The allegations which have been levelled in the FIR pertain to the personal disputes between the parties. The respondent no. 2 had appeared on 12.05.2022 when she was identified by the Investigating Officer (IO) and was exempted from personal appearance for today i.e. 19.09.2022 by this Court. The respondent no. 2 is the complainant had mentioned before this Court on the said date that since she has been married, she does not want to press criminal charges against the petitioner no. 1. It is also informed that the FIR has been quashed against the

petitioner nos. 2 to 5 on 12.05.2022.

5. On a query made by this Court, respondent no. 2 who had been identified by the IO had categorically stated that she had entered into compromise out of her own free will and without any pressure, coercion or threat. It was also stated by respondent no.2 that the entire dispute had been amicably settled between them vide MoU dated 16.09.2019. Respondent no. 2 further stated that she had no objection if FIR may be quashed.

6. It was observed by the Hon'ble Supreme Court in *Gian Singh v. State of Punjab*, (2012) 10 SCC 303, that it is encouraged to quash the FIR in circumstances wherein a compromise has been achieved. The relevant extract of the judgment reads 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 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 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."

7. The coordinate Bench of this Court, in Rifakat Ali & Ors vs. State (Govt. Of Nct Of Delhi) & Anr. in CRL.M.C. 599/2021, quashed the FIR arising out of matrimonial dispute and the FIR was registered under Sections 406/498A/377/34 IPC. The observations of the Court read as under:

"...The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have decided to part ways and get ahead in their lives without having any acrimony against each other. In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 CrPC even for an offence under Section 377 IPC on the ground that the dispute is private in nature.

The learned counsel for the petitioners has placed reliance on orders of this Court in CRL.M.C.830/2019 titled as Dinesh Kumar & Ors. v. State & Anr., CRL.M.C.1613/2019 titled as Anmol Katyal & Ors. v. State (NCT of Delhi) & Anr., CRL.M.C. 5216/2018 titled as Gajender Singh & Ors. v. State (NCT of Delhi) & Ors. and CRL.M.C. 4117/2018 titled as Joginder Singh Bote & Ors. v. NCT of Delhi & Anr. In all these cases wife has levelled allegation of the husband committing an offence under Section 377 IPC. This Court has exercised its jurisdiction under Section 482 CrPC and has quashed the FIRs on the basis of the compromise entered into between the husband and wife.

It is made clear that this Court is exercising its powers under Section 482 CrPC to quash an offence of Section 377 IPC on the ground that the parties have compromised the matter with each other only because it arises out of a matrimonial dispute, the allegation has been levelled by wife against her husband of committing an offence under Section 377 IPC and the parties have decided to move ahead in life. Today, parties are present in the Court and have been identified by the Investigating Officer and their respective counsel. The respondent No.2/complainant states that she has settled all her matrimonial disputes with the petitioner No.1 out of her own free will, without pressure, coercion or undue influence and states that she does not want to pursue with the present case any further and request that the present FIR and the proceeding emanating therefrom may be quashed. The parties undertake that they will remain bound by the terms of the settlement arrived at between them before the Delhi Mediation Centre, Karkardooma Courts and the proceedings recorded before this Court.

The parties understand the implication of the present proceedings. In view of the settlement arrived at between the parties, this Court is of the opinion that no useful

purpose will be served in continuing with the present proceedings. Resultantly, FIR No. FIR No.61/2018 dated 08.02.2018 registered at Police Station Khajuri Khas for offences under Sections 406,498A,377 and 34 IPC and the proceedings emanating therefrom are hereby quashed. The parties shall remain bound by the terms of the settlement and the undertakings given to the Court..."

8. In view of the above fact that the parties have amicably resolved their differences of their own free will, and without any coercion, no useful purpose will be served by continuing the proceedings, rather the same would create further acrimony between them. It would thus be in interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto. There is no legal impediment in quashing the FIR in question.

9. Accordingly, FIR bearing No. 191/2019 registered at Police Station Amar Colony for offences punishable under Sections 376/377/417/420/468/469/120B of the IPC and all consequential proceedings emanating therefrom are quashed.

10. The petition stands disposed of.

SWARANA KANTA SHARMA, J SEPTEMBER 19, 2022/zp