

# Dhiraj Kumar & Ors vs State Govt. Of Nct Of Delhi & 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. 1578/2024  
DHIRAJ KUMAR & ORS.

Through: Mr. Devashish Bhada  
Mr. Ghanisht Bagaria, Advoca  
No.1, 2, 3 and 5 in person a  
(through Video Conferencing)

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STATE GOVT. OF NCT OF DELHI & ANR.  
Through: Mr. Digam Singh D  
State with SI Manoj Kumar,  
Respondent No.2 in person.

CORAM:  
HON'BLE MS. JUSTICE JYOTI SINGH

OR

% 27.02.2024 CRL.M.A. 6143/2024 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.354/2021 dated 05.05.2021 under Sections 498A/354/406/506/34 IPC registered at PS: Mundka and consequential proceedings emanating therefrom predicated on a settlement arrived between the Petitioners and Respondent No.2.

4. Marriage between Petitioner No.1 and Respondent No. 2 was solemnized on 03.12.2014 according to Hindu rites and ceremonies at This is a digitally signed order.

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which culminated in registration of the present FIR. Respondent No.2 had also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 being M.C. No.356/2021. Charge sheet has been filed before the Trial Court.

5. It is stated in the petition that parties have resolved all their disputes and a Memorandum of Understanding has been executed on 24.07.2023. Copy of the Memorandum of Understanding has been appended to the petition. It was agreed between Petitioner 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. Copy of judgment/decreed dated 05.01.2024 has been filed. It was further agreed that Rs.12,00,000/- shall be paid by Petitioner No.1 to Respondent No. 2 in three instalments, out of which the first instalment of Rs.6,00,000/- 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.3,00,000/- 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.3,00,000/- was payable at the time of quashing of the FIR. All other cases pending between the parties stand disposed of as withdrawn.

6. Issue notice.

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

8. Respondent No.2 is present in person and accepts notice. She is identified by the Investigating Officer SI Manoj Kumar, PS: Mundka. Petitioners No.1, 2, 3 and 5 are present in Court physically while Petitioner No.4 has joined court proceedings virtually and all are identified by their counsel and the IO.

9. Respondent No.2 acknowledges having received the balance sum of Rs.3,00,000/- in Court today by way of a Demand Draft bearing No.093681 dated 19.02.2024 drawn on Central Bank of India. Copy of the Demand Draft has been handed over and is taken on record. Respondent No. 2 states that terms of settlement have been complied with and she has no objection to the FIR being quashed to put a quietus to the litigation. Learned APP appearing on behalf of the State has no objection to quashing of the present FIR in view of the settlement between the parties.

10. 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 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 15/03/2024 at 21:18:40 victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are as follows:-

"55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim *quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest*. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. *Ex debito justitiae* is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

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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 and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating

to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is 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 15/03/2024 at 21:18:41 satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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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 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 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 15/03/2024 at 21:18:41 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."

11. 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 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 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."

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12. 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.

13. 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. Since Respondent No. 2 has categorically stated that she does not wish to pursue the criminal proceedings, the chances of conviction being bleak, no purpose will be achieved in keeping the proceedings pending and it would be in the interest of justice that proceedings are terminated. This Court is fortified in its view This is a digitally signed order.

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14. Accordingly, FIR No.354/2021 dated 05.05.2021 under Sections 498A/354/406/506/34 IPC registered at PS: Mundka is quashed including all proceedings emanating therefrom.

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

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

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