

Manish Kumar Singh vs State & Anr on 4 January, 2024

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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+ CRL.M.C. 1176/2019 & CRL.M.A.4570/2019
MANISH KUMAR SINGH
Through:

STATE & ANR.

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+ CRL.M.C. 1186/2019 & CRL.M.A.4614/2019
MANISH KUMAR SINGH & ORS.
Through: Ms. Urvashi
Advocate a
petitioners in pe
versus

STATE & ANR.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN
ORDER

% 04.01.2024

1. The present petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C) for quashing of FIR Nos. 945/2015 dated 15.12.2015 and 270/2011 dated 01.11.2011 under Sections 292/354(D)/509/506 IPC & 498A/34 IPC both registered at Police Station Sagarpur. The FIRs were registered on the complaints made by Respondent No.2 (wife) in the present This is a digitally signed order.

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2. It is averred that the marriage between Petitioner No.1 and Respondent No.2 was solemnized on 21.11.2010 as per Hindu rites and rituals. However due to matrimonial discord, some

misunderstanding took place between Petitioner No.1 & Respondent No.2

3. Owing to the misunderstandings and temperamental differences, both Petitioner No.1 and Respondent No.2 started living separately

4. The Respondent No. 2 made a complaint in Crime against Women Cell against the petitioner and his family members which later culminated into the above-mentioned FIR No. 270/2011 alleging that Respondent No. 2 was subjected to cruelty. Subsequently, Respondent No. 2 filed another complaint which culminated into FIR NO. 945/2015 against the Petitioner No.1 and his friends alleging that Respondent No. 2 was subjected to sexual harassment. The chargesheets in both the FIRs have been filed.

5. The present petitions are filed on the ground that parties have entered into an amicable settlement stated 18.01.2018. It is stated that settlement took place between the parties with the intervention of the Delhi High Court Mediation and Conciliation Centre. Pursuant to the settlement agreement the parties have obtained the decree of divorce and they intend to live their future lives peacefully.

6. The parties have decided to sever the matrimonial disputes and obtain divorce by mutual consent. In terms of the settlement, the Petitioner No.1 has agreed to pay a sum of Rs17,50,000/- to Respondent No. 2, out of which, a sum of Rs.11,50,000/- already stands paid. A demand draft bearing no.

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7. Petitioner No.1 is present in Court and undertakes that the rights of the minor Child will not be affected in any manner and has also filed an affidavit with respect to the same in CRL.M.C. 1186/2019. He also undertakes that he shall continue to pay the entire school fees of the minor child till she attains the age of majority.

8. Respondent No.2 is also present in Court and confirms that all the terms and conditions in terms of the settlement agreement dated 18.01.2018 have been complied with.

9. Parties are present and have been duly identified by the IO.

10. Offences under Sections 519/506 IPC are compoundable whereas offences under Sections 292/354D/498A, IPC are non- compoundable.

11. It is well settled that the High Court while exercising powers under Section 482 CrPC can compound offences which are non-compoundable under the Code on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In *Narinder Singh & Ors. V. State of Punjab & Anr.* reported as (2014) 6 SCC 466, the Supreme Court has 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 This is a digitally signed order.

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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 This is a digitally signed order.

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29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

12. Similarly, in *Parbatbhai Aahir & Ors v. State of Gujarat & Anr.* reported as (2017) 9 SCC 641, the Supreme Court has observed as under:-

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High 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 26/01/2024 at 22:04:52 Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or

(ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences. 16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and This is a digitally signed order.

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16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

13. Keeping in view the nature of allegations, considering the facts that petitioner no.1 and respondent no.2 were married to each other and have decided to live separately and have settled all their disputes, this Court feels that no useful purpose will be served by keeping the dispute alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the considered opinion that this is a fit case to exercise extraordinary discretionary jurisdiction under Section 482 of CrPC. The petitioner is also bound down to the undertaking that he will continue to pay the entire school fees of the minor child till she attains the age of majority.

14. Thus, keeping in mind the nature of allegations, the settlement between the parties, pre-existing relationship between the parties and the law laid down by the Hon'ble Apex Court from time to time, FIR Nos. 945/2015 and 270/2011 and consequential the proceedings arising therefrom are quashed.

15. All pending applications also stands disposed of.

AMIT MAHAJAN, J JANUARY 4, 2024 ns This is a digitally signed order.

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