

Suraj & Ors vs State (Nct Of Delhi) & Anr on 3 January, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 17/2024
SURAJ & ORS.

STATE (NCT OF DELHI) & ANR.

Through: Mr. Digam Singh Dagar,
State with SI Gaurav Yadav, P.S
Mr. Sushil Dixit, Advocate for
in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH
ORDER

% 03.01.2024 CRL.M.A. 64/2024 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. This is a petition filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No.444/2022 dated 21.05.2022 under Sections 498A/406/34 IPC and Section 4 of Dowry Prohibition Act, 1961 registered at PS: Nand Nagri including proceedings emanating therefrom.

4. Petitioner No.1 is the husband of Respondent No.2 while Petitioners No.2, 3, 4 and 5 are the in-laws. At the outset, it may be noticed that in the memo of parties, the name of mother-in-law is wrongly mentioned as Smt. Usha, aged 42 years, w/o Sh. Sohan Lal. This error seems to have occurred on account of the fact that the actual name of mother-in-law of Respondent No.2 is Smt. Maya Devi, who is commonly called Smt. Usha. Learned 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 21:11:15 counsel for the Petitioners submits that all identity proofs are in the name of Smt. Maya Devi and the said fact is stated in the affidavit filed by Smt. Maya Devi, paragraph 2 whereof reads as under:-

"2. That at the time of lodging FIR, the complainant inadvertently mentioned my name as "Usha" as it my nick name but my original name is "Maya Devi" and the same is mentioned in my Aadhar Card which is enclosed with the present petition as

Annexure - P4 (Colly). It is submitted that both the names are of the same person which is me and I'm not disputing my identity in both the documents, i.e., FIR and my Aadhar card. It is further submitted that I already disclosed the said fact to the concerned IO at the time of investigation and also disclosed that I do not have any document in the name of "Usha".

5. It is averred in the petition that marriage between Petitioner No.1 and Respondent No. 2 was solemnized on 16.02.2020 according to Hindu rites and ceremonies at Delhi. No child was born out of the wedlock. On account of temperamental differences and disputes between Petitioner No.1 and Respondent No. 2, they have been living separately since 19.07.2020 and subsequently a complaint was filed by Respondent No.2 against the Petitioners under Section 12 of Protection of Women from Domestic Violence Act, 2005 ('DV Act, 2005') bearing No. 535/2021 before the learned MM, North-East, Karkardooma Courts, which was dismissed for non-prosecution. On 21.05.2022, Respondent No.2 had lodged a complaint before CAW Cell, North-East, which culminated into registration of the present FIR. Respondent No.2 had also filed a maintenance petition under Section 125 Cr.P.C. bearing Mt. No.658/2021 against Petitioner No.1 seeking maintenance before the learned Principal Judge, Family Court, Karkardooma, Delhi, which has been withdrawn at the time of recording of statement during the first motion under Section 13B(1) of the Hindu Marriage Act, 1955. Petitioner No.1 had filed a divorce petition under This is a digitally signed order.

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6. During the pendency of the proceedings, parties have mutually resolved their disputes with the intervention of their well-wishers and relatives and a Settlement Deed dated 12.08.2022 has been executed between Petitioner No.1 and Respondent No.2 before the Counselling Cell, Principal Judge, Family Court, Karkardooma, Shahdara, Delhi, copy of which has been annexed as 'Annexure P-2' to the petition.

7. As per the averments, pursuant to the settlement, marriage between Petitioner No. 1 and Respondent No. 2 has been dissolved by mutual consent by a Decree of Divorce dated 25.07.2023, copy of which is annexed with the petition as 'Annexure P-3'. An affidavit giving 'no objection' to quashing of the present FIR has been filed by Respondent No.2 in support of this petition. All litigation between the parties stands withdrawn or dismissed for non-prosecution. As per the terms of settlement, a sum of Rs.2,50,000/- was payable by Petitioner No.1 to Respondent No.2 in full and final settlement of all her claims including istridhan, past, present and future maintenance, permanent alimony, etc. It is stated in the petition that first instalment of Rs.80,000/- was paid by Petitioner No.1 to Respondent No.2 at the time of recording of statement during the first motion under Section 13B(1) of the Hindu Marriage Act, 1955 and second instalment of Rs.1,00,000/- was paid at the time of recording of statement during the second motion under Section 13B(2) of the said Act. Final instalment of Rs.70,000/- was payable at the time of quashing of the FIR.

8. Issue notice.

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

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10. Mr. Sushil Dixit, learned counsel accepts notice on behalf of Respondent No.2.

11. Petitioners and Respondent No. 2 are present in Court and are identified by their respective counsels and Investigating Officer SI Gaurav Yadav, P.S. Nand Nagri. Respondent No.2 acknowledges having received the balance sum of Rs.70,000/- by way of demand draft bearing No. 304281 dated 07.12.2023 drawn on Canara Bank, Hari Nagar, New Delhi, copy of which has been annexed as Annexure P-7. Respondent No. 2 submits that she has no objection to the FIR being quashed as the marriage between her and Petitioner No.1 stands dissolved and all other disputes have been amicably settled. An affidavit with no objection to quashing of the FIR has been filed by Respondent No.2 in support of the petition. Learned APP also has no objection to quashing of the FIR No., in view of the settlement between the parties.

12. 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.

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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.

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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 26/01/2024 at 21:11:16 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."

13. 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."

14. Parties have mutually settled all their disputes. Marriage between Petitioner No.1 and Respondent No.2 stands dissolved. Settlement amount This is a digitally signed order.

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

JANUARY 03, 2024/kks

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