

Lalit & Ors vs The State Of Nct Of Delhi & Anr on 19 December, 2023

Author: Jyoti Singh

Bench: Jyoti Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3749/2023

LALIT & ORS.

THE STATE OF NCT OF DELHI & ANR.

Through: Ms. Rupali Bandho

State with SI Usha Rawat,

Amit, P.S. Badarpur.

Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

% 19.12.2023 CRL.M.A. 35019/2023 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(CRL) 3749/2023

3. Present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No.330/2020 dated 01.08.2020 under Sections 498A/406/34 IPC registered at PS:

Badarpur, Delhi including charge sheet dated 01.08.2020, wherein Section 354 IPC was added and proceedings emanating therefrom.

4. Marriage between Petitioner No.1 and Respondent No.2 was solemnized on 06.05.2017, according to Hindu rites and ceremonies at Delhi. No child was born from the wedlock. Due to temperamental This is a digitally signed order.

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differences, Petitioner No. 1 and Respondent No. 2 could not live together. Respondent No.2 filed a complaint against the Petitioner and his family members culminating into the present FIR against the Petitioner. However, in the meantime, with the intervention of the relatives and friends, parties have amicably settled all their disputes for a total sum of Rs.7,00,000/- and have executed a Settlement Deed/Memorandum of Understanding dated 26.08.2022, incorporating the terms of settlement, copy of which has been placed on record. As per the terms of settlement, Petitioner No.1 was to pay to Respondent No.2 a total sum of Rs.7,00,000/- towards all her claims towards maintenance, istridhan, dowry articles, etc. in three instalments out of which the first instalment of Rs.2,50,000/- was paid at the time of recording of statement during First Motion under Section 13B(1) of the Hindu Marriage Act, 1955. The second instalment of Rs.2,50,000/- was paid at the time of recording of statement during the Second Motion under Section 13B(2) of the Hindu Marriage Act, 1955. The balance amount of Rs.2,00,000/- was payable to Respondent No.2 at the time of quashing of the FIR. Marriage between Petitioner No. 1 and Respondent No.2 is stated to have been dissolved by a Decree of Divorce by mutual consent on 29.05.2023 and certified copy of the judgment and decree sheet is annexed with the petition.

5. Issue notice.

6. Learned ASC accepts notice on behalf of the State.

7. Respondent No. 2 is present in Court and accepts notice and is identified by the Investigating Officer SI Usha Rawat, P.S. Badarpur. Petitioners are also present in Court and are identified by their counsel as well as the IO.

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8. Respondent No. 2 acknowledges the receipt of balance amount of Rs.2,00,000/- of the settlement amount, paid to her by way of Demand Draft bearing No.214153 dated 10.10.2023 drawn on Gramin Bank of Aryavart, Jallupur, Sehore, Lucknow Service Branch, copy of which has been handed over in Court and is taken on record.

9. There are allegations under Section 354 IPC against the brother-in-law i.e. Petitioner No.2, however, Respondent No.2 submits that the allegations were levelled on account of some misunderstanding and on account of marital discord between her and Petitioner No.1. As she has settled the matter with her husband and wants to move on in life, she does not want to pursue the criminal complaint. Learned ASC also has no objection to the quashing of the 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 victim's family settles the disputes with the offender. Relevant paragraphs of This is a digitally signed order.

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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 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 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 23/12/2023 at 22:13:41 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."

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 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 23/12/2023 at 22:13:41 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."

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.

13. Petitioner No.1 and Respondent No.2 have settled their matrimonial disputes and have peacefully parted ways. Full and final payment of This is a digitally signed order.

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Rs.7,00,000/- has been made to Respondent No.2, as agreed by Petitioner No.1 and marriage stands dissolved by a decree of divorce by mutual consent. The allegations against Petitioner No.2, the brother-in-law of the Complainant, had their genesis in the matrimonial discord as stated by the Complainant in Court today. It is unfortunate that parties resort to making allegations amounting to registration of FIRs for serious offences, when the allegations have no element of truth. However, now that the Complainant has moved on in life and does not want to pursue the complaint, even if the criminal proceedings were to continue, the chance of conviction will be remote. In this view of the matter, this Court is of the view that it would be in the interest of justice and to prevent abuse of the process of the Court that the criminal proceedings are terminated. Accordingly, FIR No.330/2020 dated 01.08.2020 under Sections 498A/406/34 IPC registered at PS:

Badarpur, Delhi including charge sheet dated 01.08.2020 are quashed with proceedings emanating therefrom.

14. Petition stands allowed and disposed of.

JYOTI SINGH, J DECEMBER 19, 2023/kks This is a digitally signed order.

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