

# Deepak Kumar Aggarwal vs State Of Nct Delhi on 14 May, 2024

**Author: Navin Chawla**

**Bench: Navin Chawla**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 1672/2024

DEEPAK KUMAR AGGARWAL

..... Petition

Through: Mr.Mukesh

Hood

Mr.Prashant Singh Hooda and

Mr.Vikrant Hudda, Advs.

versus

STATE OF NCT DELHI

Through:

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% 14.05.2024

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No.0503/2021 registered at Police Station: Swaroop Nagar, Outer-North District, Delhi under Sections 323/342/376/377/506/34 of the Indian Penal Code, 1860 (in short, 'IPC') along with all other proceedings arising therefrom, on the basis of settlement.

2. The learned counsel for the petitioners submits that the parties have amicably settled their inter se disputes and have executed a settlement vide Memorandum of Understanding dated 01.11.2023. He submits that the petitioner no.1 and the respondent no.2 got married on 02.05.2021 and are residing together happily.

3. The respondent no.2, who is personally present in Court and has 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 17/05/2024 at 22:24:11 been duly identified by the Investigating Officer (IO), does not oppose the present petition and reiterates that the disputes have been amicably settled out of her own free will and without any coercion, and reaffirms the above averments made by the learned counsel for the petitioners and submits that she is living happily with the petitioner no.1 and has no objection if the present FIR is

quashed.

4. I have perused the contents of the FIR and also the Settlement between the parties.

5. Keeping in view the fact that the petitioner no.1 and the respondent no.2 are residing together happily and that the respondent no.2 does not wish to pursue her complaint any further, as also the Settlement arrived at between the parties, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR as the chances of its success will be rather minuscule and it would rather create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

6. In Kapil Gupta v. State (NCT of Delhi), (2022) 15 SCC 44, the Supreme Court while quashing an FIR under Section 376 of the IPC, has held as under:-

"11. No doubt that the learned ASG is right in relying on various judgments of this Court which reiterate the legal position that in heinous and serious offences like murder or rape, the Court should not quash the proceedings. It will be relevant to refer to paras 29.5 to 29.7 of the judgment of this Court in Narinder Singh v. State of Punjab (2014) 6 SCC 466, which read thus:

"29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote 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 17/05/2024 at 22:24:12 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.

29.6. Offences under Section 307IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the

parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

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 17/05/2024 at 22:24:12 29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of 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 17/05/2024 at 22:24:12 sparing a convict found guilty of such a crime."

12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an

initial stage before commencement of trial, the said factor will weigh with the court in exercising its power."

7. Guided by the principles enunciated by the Supreme Court in its judgments in Kapil Gupta (supra), Jitendra Raghuvanshi v. Babita Raghuvanshi, (2013) 4 SCC 58, Gian Singh v. State of Punjab, (2012) 10 SCC 303; Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur & Ors. v. State of Gujarat & Ors. (2017) 9 SCC 641 and State of Haryana & Ors. v. Bhajan Lal & Ors. 1992 Supp (1) SCC 335, this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR This is a digitally signed order.

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8. Accordingly, the petition is allowed. Consequently, FIR No.0503/2021 registered at Police Station: Swaroop Nagar, Outer-North District, Delhi under Sections 323/342/376/377/506/34 of the IPC and all consequential proceedings emanating therefrom against the petitioners are quashed.

NAVIN CHAWLA, J MAY 14, 2024/ns/ss Click here to check corrigendum, if any This is a digitally signed order.

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