

Rakesh Kumar Thukral And Ors vs The State (Gnct), Delhi And Anr on 21 May, 2024

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 4173/2024
RAKESH KUMAR THUKRAL
AND ORS

..... Petitioners

Through: Mr. Vineet Mehta & M
Mukul Saluja, Advs.
Petitioners in perso

ver

THE STATE (GNCT), DELHI
AND ANR

..... Responde

Through: Mr. Pradeep Gah
for the State
Tarun Thakur,
& Mr. Ashish,
SI Kulbir Sing
Nagar
Ms. G. Arudhra
Savyasachi Raw
Neil Shroff, A
R2 in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN
ORDER

% 21.05.2024 CRL.M.A. 15836/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.

2. The application stands disposed of.

3. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No. 100/2020 dated 28.02.2020, for offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Hari Nagar, including all consequential proceedings arising therefrom.

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4. The said FIR was registered on a complaint filed by Respondent No. 2, alleging that she was subjected to cruelty, sexually coloured remarks and her clothes were torn, by the present petitioners.

5. It submitted that though the allegations were made against the husband and his family members, the learned Trial Court has only framed charges against the present petitioners, under Sections 354/354A/354B/406498A/34, being the family members of the husband.

6. It is averred that the marriage between son of Petitioner Nos. 1 & 2 and Respondent No.2 was solemnized on 28.01.2017 as per Hindu rites and ceremonies. No child was born out of the said wedlock. Thereafter, due to matrimonial discord, some misunderstandings took place between the parties, due to which the petitioner and Respondent No. 2 started living separately since 16.11.2018.

7. Subsequently, Respondent No.2 made a complaint before Crime Against Women Cell, against the petitioners, alleging that she was subjected to cruelty, sexually coloured remarks and her clothes were torn by them, which later culminated into the aforementioned FIR No. 100/2020.

8. The present petition is filed on the ground that the matter is amicably settled between petitioners and Respondent No. 2 by way of a Settlement Agreement dated 11.03.2024, with the intervention of Counselling Cell, Family Court, Tis Hazari District Courts, New Delhi, of their own free will, without any force, undue influence or coercion.

9. It is stated that in terms of the settlement the Respondent No.2 and the son of Petitioner Nos. 1 & 2 are in the process of obtaining decree of divorce by mutual consent, and intend to live This is a digitally signed order.

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10. The parties are present in person and have been duly identified by the Investigating Officer.

11. Respondent No. 2 is present in person in Court, and states that she does not wish to continue with the proceedings arising out of the present FIR, and Respondent No. 2 has no objection if the present FIR is quashed.

12. The learned counsel for the parties also states that the remaining obligations in terms of the settlement dated 11.03.2024, would be complied without any delay.

13. Offence under Section 406 of the IPC is compoundable whereas offences under Sections 498A/354/354A/354B of the IPC are non-compoundable.

14. It is well settled that the High Court while exercising its powers under Section 482 of the 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 the case of Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466, the Hon'ble Supreme Court had 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 refusing to accept the settlement with direction to continue with the criminal proceedings:

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 This is a digitally signed order.

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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 resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the This is a digitally signed order.

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(emphasis supplied)

15. Similarly, in the case of Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641, the Hon'ble Supreme Court had 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 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.

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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 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 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 22/05/2024 at 23:55:01 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."

(emphasis supplied)

16. Keeping in view the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no useful purpose would 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 opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

17. In view of the above, FIR No. 100/2020 and all consequential proceedings arising therefrom are quashed.

18. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J MAY 21, 2024 "SS"

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