

Jaimeet Singh Kalra & Ors. vs State & Anr. on 2 June, 2022

Author: Sudhir Kumar Jain

Bench: Sudhir Kumar Jain

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: May 30, 2022

Decided on: June 02, 2022

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CRL.M.C. 1474/2019

JAIMEET SINGH KALRA & ORS.

..... Petition

Through: Mr. B.S. Dhir, Ms. Sukhnee
Kaur Dhir and Ms. Yashika
Vij, Advocates with the
petitioners in person.

V

STATE& ANR.

..... Responde

Through: Mr. Ashok Kumar Garg,
APP for the State with S.I
Bijender Singh, P.S.
Rajinder Nagar, New Delhi.
Mr. Rajesh Baweja,
Advocates with R-2 in
person

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CORAM:

HON BLE MR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT

1. The present petition is filed under section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred as "the Code") for quashing of FIR bearing No. 167/2016 registered at PS Rajinder Nagar.

2. The petitioner no 1 and the respondent No.2 got married on 28.6.2015 according to Hindu rites and customs and out of their marriage one girl child namely Keerat was born on 19.4.2016 who is in the care and custody of respondent no 2. The petitioners no 2 to 5 are family members/relatives of the petitioner no 1 and are identified by the investigating officer. The respondent no 2 is also identified by the Investigating Officer. The matrimonial differences stated to be arisen between the petitioner no 1 and respondent no 2 and due to this reason they are living separately since 18.12.2015. The petitioner no 1 and the respondent no 2 initiated legal proceedings against each other. The petitioner no 1 filed a petition under section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights titled as Jaimeet Kalra V Gurdeep Kaur bearing no HMA No 261/16 which was pending in Family Court, Tis Hazari, Delhi. The petitioner no 2 filed a civil suit against the petitioner no 1 and the respondent no 2 titled as Jasbir Singh & another V Jaimeet Singh & another bearing no 03/2016 which was pending in the court of Civil Judge, Tis Hazari Courts. The

petitioners have already withdrawn petition under section 9 of Hindu Marriage Act, 1955 and Civil Suit due to settlement. The respondent No.2 lodged a complaint against the petitioners and on the basis of said complaint, FIR no 167/2016 was registered at PS Rajinder Nagar, Delhi initially for offences punishable under sections 498A/406/376/34 of Indian Penal Code, 1860 (hereinafter referred to as "IPC"). The statement of the respondent no 2 was recorded under section 164 of the Code during investigation and thereafter offences punishable under sections 328/377/506 IPC were also added. The investigating officer after conclusion of the investigation filed the charge sheet and thereafter supplementary charge sheet was also filed on 16.09.2019. The petitioner no 1 and the petitioner no 4 filed bail applications bearing no 3173 and 3027 and the court of Sh. Chander Shekher, ASJ (Central) referred bail applications for mediation to Delhi Mediation Centre, Tis Hazari Courts. The remaining petitioners also filed bail applications bearing no 3932 and 3174.

3. The petitioner no 1 and the respondent no 2 have settled their disputes vide settlement dated 27.05.2016 recorded in Delhi Mediation Centre, Tis Hazari Courts. It is stated by the respondent no.2 that she has settled matrimonial disputes with the petitioner no 1 out of her own free will and without any force and coercion. The respondent no 2 has retained custody of the daughter Keerat. The petitioner no 1 out of settlement had paid Rs. 40,00,000/- (Rupees Forty Lakhs Only) by way demand drafts as detailed in settlement as full and final amount for the maintenance, upbringing, marriage and education expenses of daughter Keerat which was acknowledge by the respondent no 2. The petitioner no 1 also agreed to pay Rs. 50,00,000/- (Rupees Fifty Lakhs Only) to the respondent no 2 towards full and final satisfaction of legal entitlements/claims (past, present and future) of the respondent no 2 arising out of marriage including marriage expenses, ceremonial payments to the petitioners and their relatives, permanent alimony, istridhan/dowry articles etc. The petitioner no 2 has already paid Rs. 30,00,000/- (Rupees Thirty Lakhs Only) to the respondent no 2 out of Rs. 50,00,000/- which is also acknowledged on behalf of the respondent no 2. The petitioner no. 1 paid balance amount of Rs. 20,00,000/- (Rupees Twenty Lakhs Only) by way of two demand drafts of Rs. 10,00,000 each, bearing Nos. 006230, 006233 dated 25.05.2022, 27.05.2022 in favour of respondent no. 2.

4. The marriage between petitioner no.1 and the respondent no.2 has already been dissolved by decree of divorce by mutual consent vide judgment dated 19.09.2017 passed in HMA no.946/2017 titled as Gurdeep Kaur and Jaimeet Singh Kalra passed by the court of Sh. Dharmesh Sharma, Principal Judge, Family Courts, Central District, Tis Hazari Courts, Delhi.

5. The respondent no 2 stated that the she does not have any objection if the present FIR bearing no.167/2016 registered at P.S. Rajinder Nagar along with consequential proceedings including judicial proceedings is allowed to be quashed. It is also informed that the respondent no 2 after divorce from the petitioner no 1 had already re-married and is leading happy married life. The counsel for the respondent no 2 argued that under peculiar facts and circumstances of present case, FIR bearing no 167/2016 can be quashed.

6. The Additional Public Prosecutor opposed the quashing of FIR bearing no 167/2016 by stating that although the petitioner no 1 and the respondent no 2 have settled their disputes amicably but FIR bearing no. 167/2016 also pertains to offences punishable under sections 328/498A/376/377

IPC which are not compoundable offence within ambit of section 320 of the Code and as such FIR bearing no 167/2016 cannot be allowed to be quashed. The Additional Public Prosecutor cited Gian Singh V State of Punjab and Others, (2012)10SC C 303 and two judgments titled as Mohd. Sufiyan & others V State (NCT of Delhi) and another, W.P. (CRL) 2568/2021 decided on 11.05.2022 and Pawan Gaur V State (NCT Of Delhi), Crl. M.C. 981/2021 decided on 26.03.2021 by Co- ordinate Benches of this Court in support of arguments that FIR pertaining to offence punishable under section 376 IPC cannot be quashed. The Additional Public Prosecutor also expressed concerned regarding minor child namely, Keerat (daughter) in view of the judgment titled as Ganesh v. Sudhir Kumar Shrivastava and Ors. (2020) 20 SCC 787, and stated that the respondent no.2 can settle her claims relating to maintenance/permanent alimony/istridhan with the petitioner no.1 and other petitioners but she could not give up the rights vesting in favour of minor child Keerat (daughter) relating to maintenance and other issues.

7. The counsel for the petitioners argued that the petitioner no 1 and the respondent no 2 have settled their disputes amicably vide settlement dated 27.05.2016 and their marriage is already dissolved by decree of divorce by mutual consent vide judgment dated 19.09.2017. The petitioner no 1 has already paid settled amount of Rs. 90,00,000/- (Rupees Ninety Lakhs Only). The petitioner no 1 and the respondent no 2 after divorce from each other have already re-married and are having children out of their second marriage. He further argued that FIR bearing no 167/2016 was got registered by the respondent no 2 due to matrimonial difference with the petitioner no 1 on basis of false and frivolous allegations. The counsel for the petitioners cited Kundan & another V State & others, Crl. M.C. 27/2022 decided on 21.02.2022 by Co-ordinate Bench of this court in support of argument that FIR pertaining to offence punishable under section 376 IPC can be quashed. The counsel for the petitioners also submitted written arguments.

8. Issue which needs judicial consideration is that whether in exercise of inherent powers as provided under section 482 of the Code, FIR bearing no 167/2016 which also pertains for non-compoundable offences punishable under sections 328/498A/376/377 IPC, can be quashed.

9. Section 320 of the Code deals with compounding of offences. As per section sub section (1) certain specified offences can be compounded without leave/permission of the court and as per sub section (2) certain specified offences can be compounded with leave/permission of the court. The offences punishable under sections 498A/328/376/377 IPC are non-compoundable offences. Section 482 saves the inherent power of the High Court and reads as follows:-

Section. 482. Saving of inherent power of High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

10. The Supreme Court in various decisions considered issue whether High Court in exercise of its inherent powers under section 482 of the Code can quash criminal proceedings/ FIR/ complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code. The Supreme Court in Dharampal and Others V Ramshri (Smt.) and others, 1993 Cri.L.J. 1049 observed

that the inherent powers Under Section 482 of the Code cannot be utilized for exercising powers which are expressly barred by the Code. In *Arun Shankar Shukla V State of Uttar Pradesh and Others*, AIR 1999 SC 2554 held as under:-

...It is true that Under Section 482 of the Code, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. But the expressions "abuse of the process of law" or "to secure the ends of justice" do not confer unlimited jurisdiction on the High Court and the alleged abuse of the process of law or the ends of justice could only be secured in accordance with law including procedural law and not otherwise. Further, inherent powers are in the nature of extraordinary powers to be used sparingly for achieving the object mentioned in Section 482 of the Code in cases where there is no express provision empowering the High Court to achieve the said object. It is well-neigh settled that inherent power is not to be invoked in respect of any matter covered by specific provisions of the Code or if its exercise would infringe any specific provision of the Code. In the present case, the High Court overlooked the procedural law which empowered the convicted accused to prefer statutory appeal against conviction of the offence. The High Court has intervened at an uncalled for stage and soft-pedalled the course of justice at a very crucial stage of the trial.

11. The Supreme Court continuously observed that the extraordinary power Under Section 482 Code of Criminal Procedure should be exercised sparingly and with great care and caution and can be used to prevent abuse of the process of the court or to secure ends of justice and the exercise of inherent powers entirely depends on facts and circumstances of each case.

12. The Supreme Court in *B.S. Joshi V State of Haryana* (2003) 4 SCC 675 held that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under section 482 of the Code. The Supreme Court in *Manoj Sharma V State & others*, (2008) 16 SCC 1 considered issue whether an FIR under sections 420/468/471/34/120-B IPC can be quashed either under section 482 of the Code or under Article 226 of the Constitution when the accused and the complainant have compromised and settled the matter between themselves. The Supreme Court observed that ultimate exercise of discretion under section 482 of the Code or under Article 226 of the Constitution is with the court which has to exercise such jurisdiction in the facts of each case. It has been explained that the said power is in no way limited by the provisions of Section 320 of the Code. It was observed as under:-

8....Once the complainant decided not to pursue the matter further, the High Court could have taken a more pragmatic view of the matter. We do not suggest that while exercising its powers under Article 226 of the Constitution the High Court could not have refused to quash the first information report, but what we do say is that the

matter could have been considered by the High Court with greater pragmatism in the facts of the case.

9. ...In the facts of this case we are of the view that continuing with the criminal proceedings would be an exercise in futility....

13. The Supreme Court in *Sushil Suri v. Central Bureau of Investigation and another*, (2011) 5 SCC 708, considered the scope and ambit of the inherent jurisdiction of the High Court and observed as under:-

16. Section 482 Code of Criminal Procedure itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely,

(i) to give effect to an order under Code of Criminal Procedure; (ii) to prevent an abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is trite that although the power possessed by the High Court under the said provision is very wide but it is not unbridled. It has to be exercised sparingly, carefully and cautiously, *ex debito justitiae* to do real and substantial justice for which alone the Court exists.

14. The power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or inter-changeable in law. The Supreme Court in various decisions also considered scope of Section 320 vis-à-vis the inherent power of the High Court under Section 482 of the Code. The Supreme Court in *Shiji alias Pappu and others V Radhika and Anr*, (2011) 10 SCC 705 considered the exercise of inherent power by the High Court under section 482 in a matter where the offence was not compoundable and observed that simply because an offence is not compoundable under section 320 Code of Criminal Procedure is by itself no reason for the High Court to refuse exercise of its power under section 482 Code of Criminal Procedure. It was further observed that there is a subtle distinction between compounding of offences by the parties before the trial court or in appeal and the exercise of power by the High Court to quash the prosecution Under Section 482 Code of Criminal Procedure. The Supreme Court in *Y. Suresh Babu V State of A.P.*, (2005) 1 SCC 347 allowed the compounding of an offence under section 326 IPC even though such compounding was not permitted by Section 320 of the Code.

15. The Supreme Court after analysing earlier decisions as referred hereinabove and other decisions in *Gian Singh V State of Punjab and Ors.*, (2012)10SC C 303 which is also cited by the Additional Public Prosecutor laid down following principles:-

57. 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominantly civil favour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

16. The Supreme Court in *State of Madhya Pradesh V Laxmi Narayan & Ors.*, 2 (2019) 5 SCC 688 recapitulated principles laid down in *Gian Singh* case and observed as under:-

(1) That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-

compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves; (2) Such power is not to be exercised in those prosecutions which involved 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;

(3) Similarly, such power is not to be exercised for the offences under the special statutes 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;

(4) xxx xxx xxx (5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.

17. The Supreme Court in Ramgopal & another V State of Madhya Pradesh, Criminal Appeal No. 1489 of 2012 decided 29th September, 2021 observed as under:-

11. True it is that offences which are „non-compoundable cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of „compoundable offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-

compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post- conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482

Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh & Ors. vs. State of Punjab & Ors.* 3 (2014) 6 SCC 466 and *Laxmi Narayan (Supra)*.

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a „settlement through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

18. The Co-ordinate Bench of this court in *Mohd. Sufiyan* as cited by the Additional Public Prosecutor declined to quash offence punishable under section 376 IPC despite statement given by the wife to the effect that she lodged FIR in anger and out of vengeance without paying due attention as to the consequences of FIR and settlement between the concerned parties. The reliance was placed on *State of Madhya Pradesh V Madan Lal*, (2015)7SCC681. In *Pawan Gaur V State (NCT of Delhi)*, CrI. M.C. 981/2021 decided on 26.03.2021 another Coordinate Bench of this court declined to quash FIR pertaining to offence punishable under section 376 IPC despite compromise between the parties.

19. In *Kundan* cited by the counsel for the petitioners, this court quashed FIR pertaining to offences punishable under section 363/366/376 IPC and section 6 of the Prevention of Children from Sexual Offences Act, 2012 on the ground that the victim/prosecutrix and the accused got married and the victim/prosecutrix delivered a baby boy. The victim/prosecutrix in statement under 164 of the Code also stated that she was in love with the accused and due to opposition of marriage by her parents, she decided to go with the accused.

20. The inherent powers under section 482 of the Code can be used to prevent abuse of process of law and to secure the ends of justice. The Supreme Court in *Gian Singh* as referred hereinabove laid down that inherent power under section 482 of the Code is required to be exercised to secure the ends of justice or to prevent abuse of the process of any Court and power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute depending on the facts and circumstances of each case. However the Supreme Court cautioned that for exercise of inherent power due regard must be given to the nature and gravity of the crime and observed that heinous and serious offences such as murder, rape, dacoity, etc. cannot be quashed even despite settlement of disputes between the victim and the offender as these offences are not private in nature and have serious impact on society. It was further observed that that the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different

footing for quashing including 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 as these disputes are private or personal in nature and the parties have resolved entire dispute. The High Court may also quash criminal proceedings where possibility of conviction is remote and bleak and continuation of criminal case is causing great oppression and prejudice to the accused and extreme injustice would be caused to him and to put an end to criminal case would be appropriate. The Supreme Court in *State of Madhya Pradesh V Laxmi Narayan & Others* besides reiterating principles laid down in *Gian Singh* case observed that while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc. The Supreme Court in *Ramgopal & another V State of Madhya Pradesh* observed that the High Court after considering peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 of the Code in aid to prevent abuse of the process of any Court and/or to secure the ends of justice. It was further observed that the High Court can quash non compoundable offences after considering nature of the offence and amicable settlement between the concerned parties. The High Court can evaluate the consequential effects of the offence and need to adopt a pragmatic approach to ensure that quashing is not paralyze the very object of the administration of criminal justice system. It was further observed that a restrictive construction of inherent powers under Section 482 of the Code may lead to rigid or specious justice which may lead to grave injustice.

21. In the present case the petitioner no 1 and the respondent no 2 got married on 28.06.2015 with each other. Marriage is considered to be an institution of trust, tolerance and mutual understanding. Marriage is based on love and affection, on caring and sensitivity, on physical and emotional comforts. It is a plant that needs to be nurtured, protected and promoted by both the parties. However in matrimonial relationship of the petitioner no 1 and the respondent no 2 differences started to surface immediately after marriage resulting into their separation with effect from 18.12.2015. The girl child namely Keerat was also born on 19.4.2016 i.e. after separation of the petitioner no 1 and the respondent no 2. Due to matrimonial acrimony and hostility, the petitioner no 1 and the respondent no 2 initiated legal proceedings against each other. The respondent no 2 got registered FIR bearing no 167/2016 which was culminating into filing of charge sheet for offences punishable under sections 328/498A/406/376/377/506/34 IPC. The respondent no 2 in FIR bearing no 167/2016 made allegations of offence punishable under section 376 IPC against her father in law namely Jasbir Singh i.e. the petitioner no 2. The relevant portion of FIR relating to allegation of rape against the petitioner no 2 is reproduced as under:-

As the father-in-law is a habitual drinker and in inebriated condition on 10.11.2015 firstly asked me to sit with him when I resisted, my father-in-law took me in his arms, kissed my cheeks and further outraged my modesty by fondling my private parts and inserted finger into my vagina....

22. The petitioner no 1 and the respondent no 2 due to intervention of the court were sent for mediation to explore possibility of settlement and ultimately the petitioner

no 1 and the respondent no 2 have settled their disputes vide settlement dated 27.05.2016 and agreed to dissolve their marriage by mutual consent and also to put an end to their pending litigation. The marriage between the petitioner no 1 and the respondent no 2 has already dissolved by decree of divorce by mutual consent vide judgment dated 19.09.2017 besides payment of settled amount to the respondent no 2 by the petitioner no 1. The petitioner no 1 and the respondent no 2 after divorce from each other have decided to give another chance to their life and have already re-

married. The petitioner No. 1 and Respondent No.2 are having children from their respective marriage.

23. The litigation/cases pending between the petitioners including the petitioner no 1 and the respondent no 2 have already been disposed of except legal proceedings in pursuance of FIR bearing no 167/2016 which also pertains to offence punishable under section 376 IPC. As mentioned hereinabove the Additional Public Prosecutor opposed quashing of FIR bearing no 167/2016 in view of Gian Singh judgment. It is correct that Gian Singh in broad perspective prohibits quashing of FIR pertaining to rape. The respondent no 2 is not interested to pursue legal proceedings arising out of FIR No 167/2016 and in affidavit/NOC already deposed that she does not have objection if FIR bearing no. 167/2016 and its consequential proceedings are quashed and she is already re-married. The lodging of FIR bearing no 167/2016 was outcome of matrimonial discord between the petitioner no 1 and the respondent no 2 wherein the respondent no 2 made allegations against entire family of the petitioner no1. The allegations of committal of rape made by the respondent no 2 against her father in law i.e. the petitioner no 2 are general without any specific details and do not appeal to the reasons and appears to be unnatural away from reality.

24. Under given facts and circumstances of case, there is remote and bleak possibility of conviction and continuance of legal proceedings arising out of FIR bearing no 167/2016 shall cause great oppression and prejudice to the petitioners and particularly to the petitioner no 1 who shall be subjected to extreme injustice and as such to put an end to legal proceedings arising out of FIR bearing no 167/2016 would be appropriate.

25. As observed in Ramgopal & another V State of Madhya Pradesh the High Court need to adopt a pragmatic approach to ensure that quashing is not paralyze the very object of the administration of criminal justice system and a restrictive construction of inherent powers under Section 482 of the Code may lead to rigid or specious justice which may lead to grave injustice. The antecedents of the petitioners including the petitioner no 1 are clear and they have never been indulged in criminal activities. The respondent no 2 has settled with the petitioner no 1 out of her own free will and without any force, fear and coercion and after understanding legal consequences of the settlement.

26. In view of above discussion and to secure the ends of justice and to prevent abuse of the process of Court, the present petition is allowed and FIR bearing no 167/2016 initially registered under sections 498A/406/376/34 IPC at PS Rajinder Nagar along with consequential proceedings including judicial proceedings in pursuance of charge sheet filed under sections 328/498A/406/376/377/506/34 is quashed.

27. In respect of rights and legal entitlements of minor child Keerat, the petitioner no 1 in affidavit sworn on 06.02.2020 has already deposed as under:-

4. That, it is further stated that the terms of the settlement stating „full and final' shall not restrict Baby Keerat from exercising her rights towards her education, marriage or any other expenses arising in future from the deponent

5. That, as per the direction of this Hon'ble Court, the Deponent hereby states that baby Keerat shall be free to recourse to the provisions of the law for seeking appropriate relief from the Hon'ble Court to the said effect if so required.

28. It is also made clear that the settlement dated 27.05.2016 and the present proceeding pertaining to the quashing of FIR bearing no. 167/2016 shall not affect in any manner any right vested or shall be vesting including the maintenance/inheritance and other issues in favour of minor girl child, namely, Keerat in terms of the judgment titled as Ganesh v. Sudhir Kumar Shrivastava and Others, (2020) 20 SCC787.

29. The present petition along with pending applications if any stand disposed of.

SUDHIR KUMAR JAIN, J.

JUNE 02, 2022 'N/j'