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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Order pronounced on 06.09.2022*

+ CRL.M.C. 1356/2022

ANEESH GUPTA & ORS. Petitioners

Through: Mr. Aaditya Vijay Kamal & Ms.
Akshita Katoch, Advs. with
petitioners in person.

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. N.S. Bajwa, APP for State with
SI Vijay Pal Singh, PS CWC Nanak
Pura.
Mr. Dhruv Grover & Ms. Shreya
Maggu, Advs. for complainant/R-2
along with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. This petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.003/2016 for offences under Sections 406/498A/354/377/34 IPC, registered at Police Station Crime Women Cell, Nanak Pura and the proceedings emanating therefrom.

2. The principal ground on which the petition has been filed is that the respondent No.2/complainant has settled all her disputes amicably with the petitioners. The settlement was arrived at between the parties on 18.09.2021. Copy of the settlement dated 18.09.2021 is annexed with the petition (Annexure P-2, of the paperbook).

3. As per the settlement dated 18.09.2021, it is agreed between the parties that husband/petitioner no.1 shall pay lump sum amount of Rs.74,00,000/- to the wife/respondent no.2 as full and final settlement towards all claims, Stridhan, child maintenance, compensation, permanent alimony and child care maintenance towards past, present and future. The respondent no.2 shall invest out of the aforesaid sum, Rs. 10 lacs in the name of the minor for his benefit till he attains the age of majority.

3.1 It is agreed between the parties that out of the above settlement amount of Rs. 74,00,000/- the petitioner no.1 shall pay a sum of Rs.20,00,000/- at the time of signing of the Settlement Agreement. The DD No. 465231 dated 18.09.2021 drawn on Yes Bank has been given by the petitioner to respondent no.2. The petitioner no.1 shall pay Rs. 20,00,000/- to respondent no.2 at the time of recording of statements of the parties in the first motion petition under Section 13-B(1) of Hindu Marriage Act which shall be filed by the parties within ten days from the date of settlement. Payment of Rs. 20,00,000/- by way of DD/RTGS/NEFT shall be done by the petitioner no.1 before recording the statements in the second motion and acknowledgment shall be shared with the respondent no.2. It is agreed between the parties that petitioner no.1 shall pay Rs. 14,00,000/- to respondent no.2 by way of demand draft at the time of quashing of the aforesaid FIR. The petitioner no.1 undertakes to file the petition for quashing of FIR within 7 days of grant of decree of divorce. In case of failure of the petitioner no.1 to file quashing petition as aforesaid, he undertakes to pay the balance amount of Rs. 14,00,000/- within 15 days of grant of decree of divorce by demand draft.

3.2 It is agreed between the parties that after receipt of the afore-mentioned

amount, respondent no.2 shall have no further claims whatsoever towards any amount/alimony towards past, present and future maintenance and accordingly her right towards any alimony past, present, future stands voluntarily waived.

3.3 The respondent no.2 further agrees to give no-objection for quashing of the FIR.

3.4 The parties shall jointly file an application seeking waiver of the statutory 6 months period within 10 days of recording of statement in the first motion. The parties shall duly cooperate and sign all necessary papers for the same. The second motion petition shall be filed within 10 days from the order of waiver of the said statutory period by the Court.

3.5 It has been agreed that all the documents and trophies of the petitioner no.1, if any, shall be returned by the respondent no.2 and the petitioner no.1 shall return all the documents/testimonials to the respondent no.2, if any, more particularly, the relieving letter/experience certificate of American Express and CTET-JULY 2013 marks statement before recording of the second motion at a mutually convenient date and time.

3.6 It has been agreed that both the parties shall close the joint bank account number 52062150000810 with Punjab National Bank (earlier OBC). The petitioner no.1 shall sign the joint application for closure of the account and give the same to respondent no.2 at the time of recording of the statement in the joint petition u/S 13-B(1) of Hindu Marriage Act. Should the bank require the personal presence of the petitioner no.1 for the said purpose, the petitioner no.1 will personally go to the bank for the closure of the account. The petitioner no.1 agrees that the amount, if any, in the joint account may be taken by the respondent no.2.

3.7 It has been further agreed that the petitioner no.1 shall facilitate transfer of mobile no. 9811770993 with Vodafone service provided in favour of respondent no.2, he shall perform all the obligations and requirements in the said regard as may be required by the service provider and provide NOC, ID etc. at the time of recording the statement under Section 13B(1) of the Hindu Marriage Act.

3.8 It is agreed between the parties that the custody and guardianship of the minor child Advik, aged about 9 years shall remain with respondent no.2 who shall be the sole custodian of the child. The petitioner may have a video call with the child for one hour on the birthday of the child or may, alternatively, meet the child for one hour in the week, the child has his birthday, subject to, the convenience of the child. The petitioner and respondent no.2 shall make arrangement on whatsapp.

3.9 It has been further agreed that both the parties shall withdraw/cooperate in quashing all their cases filed in different courts, police stations or anywhere else against each other and their family members.

3.10 It is agreed between the parties that after this settlement, both the parties shall be left with no claims against each other and their family members of any nature whatsoever.

3.11 Both the parties agree and undertake that upon entering agreement, no other legal action/complaint/case shall be initiated by either of them against the other and their family members.

4. The respondent No.2/complainant has also filed affidavit (as Annexure P-7 affirming the fact that her claims and grievances against the petitioners in the above-mentioned FIR stands settled. It is also stated that

the complainant does not have any objection if the FIR against the petitioners is quashed as she has already settled her claims due to her.

5. It is to be noted here that apart from usual Sections invoked in matrimonial disputes, i.e., Section 406/498A/34 IPC, in the present FIR, Sections 354/377 IPC have also been invoked. Now the matter has been settled between the parties and this Court has to take a call as to whether the FIR in question can be quashed. A co-ordinate bench presided over by HMJ Subramonium Prasad in CRL.M.C. No. 599/2021 titled '*Rifakat Ali & Ors Vs. State & Anr.*' decided on 26.02.2021 has taken the following view on a quashing petition filed under the similar circumstances:

"The power of the High Courts to quash FIRs while exercising its powers under Section 482 CrPC even for offences which are not compoundable under Cr.PC has been settled in a number of judgments. In Gian Singh v. State of Punjab & Anr. reported as (2012) 10 SCC 303, the Supreme Court has observed as under:

"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 predominately 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."

After relying on Gian Singh (supra), this position has been laid down in Narinder Singh & Ors. v. State of Punjab & Anr. reported as (2014) 6 SCC 466, wherein the Supreme Court has observed as under:

"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 offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not

compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

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 possibility of conviction is remote 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."

In State of M.P. v. Laxmi Narayan & Ors. reported as (2019) 5 SCC 688, the Supreme Court has observed as under :

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. 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;

15.2. 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;

15.3. 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;"

A perusal of the three judgments show that the Supreme Court has consistently held that the power under Section 482 CrPC should not be used for quashing heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. since these offences are not private in nature and have a serious impact in society. An offence under Section 377 IPC is a heinous offence and points to the mental depravity of the accused and hence ought not to be quashed by the High Court on the basis of compromise by exercising its jurisdiction under Section 482 CrPC.

The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have decided to part ways and move ahead in their lives without having any acrimony against each other. In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 CrPC even for an offence under Section 377 IPC on the ground that the dispute is private in nature.

The learned counsel for the petitioners has placed reliance on orders of this Court in CRL.M.C.830/2019 titled as Dinesh Kumar & Ors. v. State & Anr., CRL.M.C.1613/2019 titled as Anmol Katyal & Ors. v. State (NCT of Delhi) & Anr., CRL.M.C. 5216/2018 titled as Gajender Singh & Ors. v. State (NCT of Delhi) & Ors. and CRL.M.C. 4117/2018 titled as Joginder Singh Bote & Ors. v. NCT of Delhi & Anr. In all these cases wife has levelled allegations on the husband committing an offence under Section 377 IPC. This Court has exercised its jurisdiction under Section 482 CrPC and

has quashed the FIRs on the basis of the compromise entered into between the husband and wife.

It is made clear that this Court is exercising its powers under Section 482 CrPC to quash an offence of Section 377 IPC on the ground that the parties have compromised the matter with each other only because it arises out of a matrimonial dispute, the allegation has been levelled by wife against her husband of committing an offence under Section 377 IPC and the parties have decided to move ahead in life.”

6. So, the view of the co-ordinate bench is that in matrimonial cases, where settlement has taken place, even the offence under Section 377 IPC can be compromised and FIR can be quashed as parties have to move ahead in life. I concur with the said view. Keeping in view the fact that parties have settled all their disputes, hence the offence under Section 354 IPC is also allowed to be quashed to put an end to all bickerings between the parties and allow them to begin a new chapter of their lives.

7. Today, parties are present in the Court and have been identified by the Investigating Officer. The remaining payment of Rs.8,75,000/- is made by way of a DD No. 122692 dated 05.05.2022 drawn on Axis Bank in favour of respondent No. 2. The respondent No.2/complainant states that she has settled all her matrimonial disputes with the petitioners out of her own free will, without pressure, coercion or undue influence and states that she does not want to pursue with the present case any further and requests that the present FIR and the proceeding emanating therefrom may be quashed.

8. The parties understand the implication of the present proceedings. In view of the settlement arrived at between the parties, this Court is of the opinion that no useful purpose will be served in continuing with the present proceedings. Resultantly, FIR No.003/2016 for offences under Sections

406/498A/354/377/34 IPC, registered at Police Station Crime Women Cell, Nanak Pura and the proceedings emanating therefrom are hereby quashed. The parties shall remain bound by the terms of the settlement and the undertakings given to the Court.

9. The petition stands disposed of in above terms.

TALWANT SINGH, J

SEPTEMBER 06, 2022/nk

[Click here to check corrigendum, if any](#)



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