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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 573/2020

BRIJESH SINGH . . . . . Petitioner  
Through: Mr. Avninder Singh, Advocate  
alongwith petitioner

versus

STATE (NCT OF DELHI) & ORS. . . . . Respondents  
Through: Mr. Naresh Kumar Chahar,  
APP for the State with  
Inspector Arvind Kumar, P.S.  
Anand Parbat

**CORAM:**  
**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J (ORAL)**

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C.") has been filed by the petitioner seeking quashing of FIR bearing No. 02/2012, registered at Police Station Anand Parbat, Delhi for offences punishable under Sections 363/366/376 of the Indian Penal Code, 1860 ("IPC") and Sections 4/6 of Protection of Children from Sexual Offences Act, 2012 ("POCSO Act"). However, on 01.03.2014, charges were framed against the accused/petitioner for offences punishable under Sections 363/366 IPC and Section 6 of POCSO Act.

2. Issue notice. Mr. Naresh Kumar Chahar, learned APP accepts

notice on behalf of the State.

3. Petitioner is present before this Court and has been identified by his counsel Mr. Avninder Singh and Investigating Officer (IO) Inspector Arvind Kumar from Police Station Anand Parbat, Delhi.

4. In the present case, FIR under Section 363 IPC was registered on 04.01.2012 by the father of the prosecutrix on the ground of missing of his daughter. However, during investigation, in her statement under Section 164 Cr.P.C., the prosecutrix denied the contents of the FIR and stated that she was 19 years of age and that she had voluntarily accompanied the present accused/petitioner.

5. During pendency of the trial before the learned Trial Court, prosecutrix was also examined as PW-1 on 01.10.2014 and in her testimony, she did not support the prosecution case and stated that she was 19 years of age at the time of incident and she was married to the applicant/petitioner.

6. The complainant father is also present before this Court. It is stated that the prosecutrix and the accused are staying together since they were married on 03.01.2012. It is also stated that after the statement under Section 164 Cr.P.C. was recorded, the prosecutrix was sent to Nirmal Chhaya where she stayed for 1 ½ years. Her age is mentioned as 19 years by the learned Trial Court when her testimony was recorded on 01.10.2014.

7. The parties have been blessed with two children who are 07 years and 05 years respectively. The prosecutrix has not stated anything against the present accused/petitioner either before the police or before the Magistrate. Though, ordinarily such FIRs should

not be quashed, however, It was observed by the Hon'ble Supreme Court in *Gian Singh v. State of Punjab*, (2012) 10 SCC 303, that it is encouraged to quash the FIR in circumstances wherein a compromise has been achieved. The relevant extract of the judgment reads as under:

*“61. The position that emerges from the above discussion can be summarized 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 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.”*

8. Further, it has been observed in ***Narinder Singh v. State of Punjab***, (2014) 6 SCC 466 that:

*“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 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.”*

9. Similarly, in ***Parbatbhai Aahir & Ors. v. State of Gujarat & Anr., (2017) 9 SCC 641***, the Supreme Court has 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.*

*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.*

*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 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.”*

10. In the exceptional circumstances as such where the parties are living together since long and have now been blessed with two children who are minor and whose future depends on the outcome of the present FIR, this Court deems it appropriate to quash the present proceedings.

11. Accordingly, an FIR bearing No. 02/2012 registered at Police Station Anand Parbat, Delhi for offences punishable under Sections 363/366 of the Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 and all consequential proceedings emanating therefrom are quashed.

12. The present petition stands disposed of.

**SWARANA KANTA SHARMA, J**

**DECEMBER 20, 2022/ns**