

(2014) 07 DEL CK 0146
In the Delhi High Court
Case No : Crl. M.C. No. 3300 of 2014

Sanddep

APPELLANT

Vs

Pooja

RESPONDENT

Date of Decision : 30-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 307, 34, 406, 498A

Citation : (2015) 213 DLT 591

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Charanjeet and Pavitra Veer Chikar, Advocate for the Appellant; Nishi Jain, A.P.P. and Nitin, S.I, Ranvir Singh, Advocate for the Respondent

Judgement

Sudershan Kumar Misra, J.

Crl. M.A. 11413/2014

Exemption, as prayed for, is allowed, subject to all just exceptions.

The application stands disposed of.

Crl. M.C. 3300/2014

1. This petition has been moved under Section 482, Cr.P.C. seeking quashing of FIR No. 5/08 registered under Sections 498A/ 406/ 34, IPC and Sections 3/ 4 of the Dowry Prohibition Act, on 4.1.2008 at Police Station Nand Nagri, Delhi, and proceedings emanating therefrom. It is stated that the FIR came to be registered as a result of certain matrimonial disputes between the petitioner No. 1, Sandeep @ Sandeep Kumar @ Sandeep Rohilla and respondent No. 1/complainant, Pooja @ Varsha Rohilla, and that all disputes and differences have since been resolved between the parties. The terms and conditions upon which the differences have been resolved are stated to have been duly recorded by a joint statement on oath before the ADJ (HMA), Karkardooma Court on 8.12.2009 in HMA No.

470/2009. A certified copy of said joint statement has also been annexed as Annexure "C" to this petition.

2. The complainant/respondent No. 1, Pooja, who is also present in Court, is identified by her Counsel, as well as the Investigating Officer, SI Nitin, Police Station Nand Nagri. She states that she has received all the amounts mentioned in the said statement, and that she also has custody of the minor child in terms of the said statement. She further states that she does not wish to pursue the aforesaid FIR any further, and that she has no objection to the same being quashed by this Court. She also approbates all the terms and conditions as set out in the aforesaid joint statement recorded on 8.12.2009.

3. Issue notice.

4. Counsel for the State also accepts notice. She submits that looking to the circumstances, and since the complainant is not interested in pursuing the prosecution any further, no useful purpose would be served in continuing with the same.

5. In view of the overall circumstances; and looking to the pronouncements of the Supreme Court in *Gian Singh Vs. State of Punjab and Another*, , which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; and also *Narinder Singh and Others Vs. State of Punjab and Another*, , where the Supreme Court held as follows:

"31. 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--

(I) 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.

(II) 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.

(III) 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 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.

(IV) On the other, 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.

(V) 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.

(VI) Offences under Section 307, Indian Penal Code would fall in the category of heinous and serious offences and therefore is 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 307, Indian Penal Code 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 307, Indian Penal Code 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 307, Indian Penal Code. 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/delegate 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 later 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.

(VII) 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 a conclusion as to whether the offence under Section 307, Indian Penal Code 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 307, Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

I am of the opinion that the matter, which is arising purely out of matrimonial dispute and has been settled between the parties, and since there is little likelihood of the prosecution succeeding in the matter, deserves to be given a quietus.

6. Accordingly, the petition is allowed and FIR No. 5/08 registered under Sections 498A/ 406/ 34, IPC and Sections 3/ 4 of the Dowry Prohibition Act, on 4.1.2008 at Police Station Nand Nagri, Delhi, and proceedings emanating therefrom, are hereby quashed. The petition stands disposed of.