

(2025) 04 DEL CK 1090

In the Delhi High Court

Case No : Writ Petition (Crl) No.2080 Of 2024

Shafeeq Ahmad & Ors

APPELLANT

Vs

State Of Nct Of Delhi & Anr

RESPONDENT

Date of Decision : 29-04-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 164, 320, 482

Indian Penal Code , 1860 — Section 34, 307, 313, 323, 376, 377, 506, 509

Citation : (2025) 04 DEL CK 1090

Hon'ble Judges : Girish Kathpalia, J

Bench : Single Bench

Advocate : Imran Ali, Aanchal, Manjeet Arya, Fazal W. K. Warsi

Final Decision : Dismissed

Judgement

Girish Kathpalia, J.

1. Petitioners seek to invoke inherent powers of this court under Section 482 CrPC for quashing FIR No.92/2024 of PS Jamia Nagar for offences under Section 376/377/323/313/506/509/34 IPC and the proceedings arising therefrom. Originally, this petition was filed by only petitioner no.1, but subsequently the remaining petitioners also joined him, as they also got named in the Chargesheet. Quashing of the said FIR and the proceedings arising therefrom is sought solely on the ground, alleging that the petitioners have compromised the disputes with the prosecutrix (respondent no.2 herein), who supports the petition. The State (respondent no.1 herein) strongly opposes this petition. I heard learned counsel for the petitioners, supported by the counsel for respondent no.2 and learned Additional Standing Counsel for State.

2. Briefly stated, in her complaint, lodged with the local police, the prosecutrix alleged that she was repeatedly raped under force and threats, beaten up and forced to participate in unnatural sex and forced to carry out abortion under the threat of circulating her nude photographs and videos on social media. The

allegations, as elaborated in the said complaint are as follows.

2.1 The prosecutrix got married with one 'X' on 17.04.2011 and was blessed with two children. When she came to her parental home for temporary stay, her neighbour Shafeeq (petitioner no.1 herein) started following her. Shafeeq would start crying and would say that he would die without her, as he was in love with her. Gradually, she developed sympathy for him.

2.2 In the month of January, 2022 Shafeeq called her at his home under the pretext of introducing her with his family members. Once she reached there, Shafeeq established physical relations with her against her consent and also clicked her nude photographs and videos. Shafeeq claimed his right over her and threatened her to get married with him.

2.3 Thereafter, Shafeeq repeatedly took her to some hotel in Sukhdev Vihar and indulged in unnatural sex with her against her consent.

2.4 After some time, when she along with her family visited Kashmir, Shafeeq along with his niece Alina also reached there and again established physical relations with her, due to which she became pregnant. When she disclosed Shafeeq about her pregnancy, he took her to Gosia Medical Centre and got the pregnancy aborted.

2.5 Shafeeq told her to flee from her matrimonial home after taking away whatever cash amount was possible. So, she reached the said hotel in Sukhdev Vihar, where Shafeeq took from her an amount of Rs.1,10,000/- on the pretext of getting married with her. But after establishing relations with her in the hotel, he left her there and did not return for two days despite her repeated phone calls. After two days, Shafeeq came to the hotel and abandoned her on road after blocking her phone number. Later, Shafeeq returned the said amount of Rs.1,10,000/- to her brother Firoz and told him to ask her not to meet him.

2.6 After few days, Shafeeq again contacted her and asked her to get married with him, otherwise, he would circulate her photographs and videos on social media. When she requested him not to do so, he insisted her to take divorce from her husband. Under such pressure of Shafeeq, she took divorce from her husband on 10.02.2024.

2.7 Thereafter, Shafeeq introduced her with his brother-in-law Shamim (respondent no.2 herein), who enquired from her about the entire issue and then sent Shafeeq out of the room to fetch water. Once Shafeeq left the room, Shamim molested her by pressing her breast and kissed her. When she disclosed such conduct of Shamim to Shafeeq, the latter beat her up and stated that now he would not get married with her. Shafeeq forced her to leave after abusing her and threatening to circulate her photos and videos if she disclosed the issue to anyone. Shafeeq also snatched her mobile phone and after deleting the entire data during the period from 10.02.2024 to 21.02.2024, threw away the same on rooftop.

2.8 Since Shafeeq is a notorious criminal and now refusing to get married with her; and the remaining petitioners also abused her in filthy language and threatened to kill her, she lodged the complaint.

3. Upon lodging of the abovesaid complaint, the prosecutrix was taken through counselling by an NGO and the complaint was registered as the FIR now sought to be quashed. During investigation, statement of prosecutrix was recorded under Section 164 CrPC, in which she reiterated on oath before Magistrate the above mentioned allegations and also added that Shafeeq forcibly sodomized her, causing excessive bleeding and pain; and that out of fear, she had to stop going out of home.

4. It appears from contents of the present petition that the learned Additional Sessions Judge granted anticipatory bail to Shafeeq on the ground that prosecutrix, being a matured and married lady could not have been induced into physical relations on false promise of marriage, and that the photographs reflect that they had consensual relationship. In the present proceedings, this court would not test the said view of learned Additional Sessions Judge. But suffice it to say that this is not a case of "inducement" through false promise of marriage; this is a case, where a married lady was cajoled by petitioner no.1 into believing that he had fallen in love with her and thereafter he not just raped her, but also clicked her nude pictures and videos, as alleged by her, followed by abortion and repeated sexual acts, including forced sodomy after blackmailing her.

5. During arguments, learned counsel for petitioners took me through the above record and contended that this is a fit case to quash the FIR and the proceedings arising out of the same because the prosecutrix respondent no.2 has now got married with petitioner no.1 and she supports the present petition. Learned counsel for petitioners also argued that since admittedly the prosecutrix respondent no.2 was a married lady when she came in contact with petitioner no.1, there was no scope for petitioner no.1 to make any false promise of marriage. It was contended on behalf of petitioners that there is no possibility of conviction, since the prosecutrix respondent no.2 would not support prosecution during trial. Citing the judgments in the cases titled Sanjay Babu Rinku vs State, 2024 SCC OnLine Del 3504; Kapil Gupta vs State of NCT of Delhi, (2022) 15 SCC 44; Mohit vs State, 2024 SCC OnLine Del 1222; Lalit Kumar Vats vs State of NCT of Delhi, 2020 SCC OnLine Del 1956; Sandeep Kumar Pandey vs GNCTD Delhi, CRL.M.C. 2001/2021; Gaurav vs State, CRL.M.C. 2212/2021; and B.S. Joshi vs State of Haryana, (2003) 4 SCC 675, learned counsel for petitioners strongly argued that this court is not powerless to quash a complaint of even non-compoundable offences.

6. As mentioned above, learned counsel for prosecutrix respondent no.2 supported the petition, contending that for permanent quietus, it would be necessary to quash the FIR and the consequent proceedings in this case.

7. On the other hand, learned prosecutor strongly opposed the petition,

contending that prosecutrix respondent no.2 has consented to the petition under pressure. It was argued on behalf of the State that such heinous offences, if allowed to be forgiven, would leave a very bad precedent and encourage the potential wrong doers.

8. To begin with, learned counsel for petitioners is not wrong in contending that powers under Section 482 CrPC can be validly invoked to quash complaints disclosing non-compoundable offences. For, there is no explicit prohibition in the Code or elsewhere in law against such exercise. The High Court certainly can exercise inherent powers and quash non-compoundable cases if it is to prevent abuse of process or otherwise to secure the ends of justice. But that is not at all the issue involved or raised in this case. The issue in this case is as to whether this is a fit case to quash proceedings.

9. To recapitulate, the provision under Section 482 CrPC stipulates:

“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.”

This provision has not given to the criminal courts any new power, which power earlier did not exist; this provision only clarifies that codification of procedure has not led to cessation of the already existing power – the inherent power. What is contemplated by Section 482 CrPC is that powers that are inherent in a High Court cannot be limited or affected by anything stipulated in the Code, where the High Court finds it necessary to exercise those inherent powers in order to give effect to any order under the Code, or to prevent abuse of process of any court or otherwise to secure the ends of justice. No doubt, 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 unbridled jurisdiction on the High Court. 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.

9.1 It is neither possible nor desirable to lay down any straitjacket rule which would govern the exercise of inherent jurisdiction. No procedural enactment can provide for all cases that may possibly arise. So, apart from express provisions of law, courts have inherent powers which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in Section 482 CrPC by merely recognizing and preserving inherent powers of the High Courts. All courts, whether civil or criminal except the

Magisterial Courts and the Courts of Sessions, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsa esse non potest* (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under this provision, the High Court does not function as a court of appeal or revision. Inherent jurisdiction, though very wide, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It has to be exercised only *ex debito justitiae* to do real and substantial justice, for administration whereof alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to cause injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice.

9.2 In the case of *Gian Singh vs State of Punjab*, (2012)10 SCC 303, the Supreme Court traversed through plethora of judicial pronouncements on the scope of Section 482 CrPC and held thus:

"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 flavour 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.” (emphasis supplied)

9.3 In the case of *Narinder Singh vs State of Punjab*, (2014)4 SCR 1012, the Supreme Court reiterated the principles to be followed for invocation of inherent powers 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 IPC 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 IPC 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 IPC 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 IPC. 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

IPC 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 IPC 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.” (emphasis supplied)

9.4 So far as the judicial precedents cited on behalf of petitioners are concerned, the same stand on totally distinguishable factual matrix. However, even in those precedents the undisputed legal position reiterated was that each case coming for quashing of proceedings must be examined as standalone case on the basis of its factual matrix and in cases involving heinous offences like rape and sodomy etc. the High Court should be slow in quashing the proceedings.

10. In the present case, quashing of criminal proceedings is sought by petitioners, claiming that continuance of trial proceedings is abuse of process and quashing of the proceedings is called for in order to secure the ends of justice. Claim of the present petitioners is that since petitioner no.1 (against whom the prosecutrix has alleged rape, sodomy, abortion and blackmail) has now got married with the prosecutrix, quashing the FIR and the proceedings arising therefrom would secure ends of justice.

11. It is nobody’s case that the complaint lodged by the prosecutrix contains false allegations. If that is so, why should the prosecutrix be allowed to get away with lodging false complaint that led to initiation of criminal justice machinery. Every false complaint contributes to not just unnecessary load on the overflowing dockets, but also to the artifacts of crime, generating an impression in the society about falsity even of genuine complaints, thereby causing grave injustice to actual rape victims. Quashing the criminal proceedings in such situations would be tantamount to the High Court giving seal of approval to such abuse of process of criminal justice machinery by the complainant.

12. On the other hand, if the complaint lodged by the prosecutrix contained truth, would it be justified to push her into the matrimonial fold of her tormentor, thereby granting premium to the rapist. Should it not be the bounden duty of the State to ensure food, clothing and shelter to such victim, so that she does not helplessly surrender into the matrimony offered by her rapist in order to escape clutches of law.

13. The court, exercising inherent powers on such issues must strike delicate balance between abovementioned rival possibilities. And for that, it is necessary to take the complaint through full dress trial.

14. Present is not an ordinary case of a love affair having gone awry. It is also not a case, where the accused induced the victim into sexual relations through misrepresentation of false promise to marry.

15. Present is a case where the prosecutrix alleges that petitioner no.1 initially made her believe that he would die if she did not reciprocate his love for her; that thereafter petitioner no.1 established sexual relations with her against her consent; that not just this, petitioner no.1 also clicked her nude pictures and videos; that petitioner no.1 repeatedly raped her and blackmailed her into obtaining divorce from her husband, with whom she had two children; that after she obtained divorce, even petitioner no.2 molested her and when she brought this to the notice of petitioner no.1, he beat her up and abandoned her after threatening to circulate her pictures and videos, if she disclosed all that to anyone; that petitioner no.1 got her pregnancy aborted; that petitioner no.1 not just repeatedly beat her up, he even sodomised her against her consent, causing immense pain and injury.

16. In the above backdrop, there are three possibilities: either those allegations are false; or those allegations levelled by present respondent no.2 are truthful and now under fear of being maligned by circulation of her nude pictures and videos, prosecutrix has married petitioner no.1 and agreed to support this petition; or her allegations are truthful, but now she has genuinely forgiven petitioner no.1. If the allegations are false, strict action must be taken against prosecutrix respondent no.2. If the allegations are truthful, it would have to be ascertained as to whether prosecutrix respondent no.2 has voluntarily forgiven the petitioners or has done so under fear of being maligned and if so, consequences of the heinous offences committed by petitioners no.1 and 2 must follow. The court cannot arrive at truth on these aspects without testing the said allegations through full dress trial.

17. Further, as quoted from a judicial precedent flowing from the Supreme Court, the timings of the alleged settlement play a vital role and those cases where the settlement was arrived at immediately after the alleged offence, the High Court may be liberal in accepting the settlement. The idea underlying is that early settlement lends credence to the genuineness of remorse and repentance. In the present case, Chargesheet was filed by the investigators on 18.05.2024 after detailed investigation. It is hardly 10 days prior to filing of the Chargesheet that petitioner no.1 got married with the prosecutrix respondent no.2. It appears that having realised that the Investigating Officer had completed investigation and was writing the Chargesheet to be filed that petitioner no.1 decided to get married with the prosecutrix respondent no.2. It would be significant to note that according to the Status Report filed by police, apart from elaborate investigation, the Investigation Officer also seized two mobile phones of petitioner no.1 and sent the same to FSL for forensic examination and involved the Cyber Cell, South East District to retrieve the Face Book social media posts, where petitioner no.1 admittedly uploaded the videos and then deleted the same. Apparently, a Supplementary Chargesheet upon completion of digital footprints investigation is planned by police.

18. I have also deliberated upon the argument of learned counsel for petitioners

that during trial, the prosecutrix would turn hostile to prosecution case in the witness box, leading to acquittal. In view of peculiar factual matrix of this case, described above and the multiple offences alleged, for which the investigators are also carrying on cyber investigation, one would not guess the trial outcome so simplistically. And, even if assumed that in the witness box the prosecutrix respondent no.2 would go hostile to prosecution case despite her statement on oath before the Magistrate under Section 164 CrPC, she would certainly be tested through cross examination by the prosecution and would face appropriate consequences in accordance with law for having lodged false complaint.

19. In view of the aforesaid, I am not satisfied that the impugned FIR and/or the consequent proceedings can presently be treated as abuse of process of the court in any manner or that quashing the same would secure the ends of justice. On the contrary, if the complaint lodged by the prosecutrix respondent no.2 which led to the registration of FIR and the consequent proceedings is not truthful, quashing the same would be tantamount to encouraging the abuse of process of criminal justice machinery. The trend gradually setting in across the society to lodge false complaints with impunity and thereafter retract, needs to be checked. On the other hand, if the complaint lodged by the prosecutrix respondent no.2, which led to registration of FIR and the consequent proceedings is truthful, instead of extending premium to a rapist and a molester by pushing the helpless rape victim into his matrimony, it would be the duty of the State to ensure her a dignified life by providing her food, shelter and clothing.

20. Therefore, I do not find it a fit case to quash the FIR No.92/2024 of PS Jamia Nagar for offences under Section 376/377/323/313/506/509/34 IPC and the proceedings arising therefrom. The petition is dismissed.