

(2019) 01 DEL CK 0484

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 265, 397 Of 2019, Criminal Miscellaneous Application No. 1123, 1713 Of 2019

Swati & Anr

APPELLANT

Vs

State & Anr

RESPONDENT

Date of Decision : 25-01-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 209, 406, 420, 468, 471, 498A, 511
Code of Criminal Procedure, 1973 — Section 320, 482

Citation : (2019) 01 DEL CK 0484

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : A.K. Chaudhary, Izhar Ahmad, A.N. Aggarwal

Final Decision : Disposed Off

Judgement

The above captioned two petitions are outcome of a marital discord.

In the above captioned first petition, quashing of FIR No. 95/2016, under Sections 468/471/420/209/511/34 of IPC, registered at police station Dwarka South, New Delhi is sought by the wife and brother-in-law of the complainant-Ravish, on the basis of Settlement of 17th July, 2017. In the above captioned second petition, quashing of FIR No. 345/2012, under Sections 498A/406/34 of IPC, registered at police station Najafgarh, New Delhi is sought by Swati's husband and his uncle and aunt (chacha and chachi) on the basis of aforesaid Settlement of 17th July, 2017.

Upon notice, Mr. M.P. Singh, learned Additional Public Prosecutor for respondent-State submits that Ms. Swati and Mr. Ravish Kashyap are present in the Court and they have been identified to be the complainant/first informant of these two FIRs by Investigating Officers on the basis of identity proof produced by them.

Ms. Swati, complainant of FIR No.345/2012 and Mr. Ravish Kashyap, complainant of FIR No. 95/2016, submit that the matrimonial dispute stands resolved in

terms of Settlement of 17th July, 2017 reached between the parties at Family Courts, Dwarka Court, New Delhi.

Ms. Swati submits that terms of aforesaid settlement has been fully acted upon, as today she has received the settled amount of Rs. 5,80,000/- by way of demand draft bearing No. 815891, dated 5th January, 2019, drawn of State Bank of India, Branch Nangli Sakrawati, Delhi. She affirms the contents of aforesaid Settlement of 17th July, 2017 as also of her affidavit of 11th December, 2018 filed in support of this petition and submits that now no dispute with Ravish Kashyap and his uncle and aunt (chacha and chachi) survives and so, the proceedings arising out of FIR No.345/2012 be brought to an end.

Mr. Ravish Kashyap, complainant of FIR No. 95/2016, submits that due to misunderstanding, forgery was alleged and the misunderstanding now stands cleared. He affirms the contents of Settlement of 17th July, 2017 as also of his affidavit of 9th January, 2019 filed in support of this petition and submits that now no dispute with Swati and Ashish Kumar Mishra survives and so, the proceedings arising out of FIR No. 95/2016 be brought to an end.

Supreme Court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat (2017) 9 SCC 641 has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are 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 power.

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."

Since the subject matter of dispute in these two petitions is essentially matrimonial, which now stands resolved, therefore, it is deemed appropriate to quash the proceedings arising out of these FIRs.

Accordingly, FIR No. 95/2016, under Sections 468/471/420/ 209/511/34 of IPC, registered at police station Dwarka South, New Delhi and FIR No. 345/2012, under Sections 498A/406/34 of IPC, registered at police station Najafgarh, New Delhi and the proceedings emanating therefrom are quashed.

Both the petitions and applications are accordingly disposed of.

Dasti.