

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

Date of hearing and Order: 16th October 2015.

+ CRL.M.C. 1629/2014
DINESH KUMAR

..... Petitioner

Through: Ms.Kajal Chandra, Ms.Swati Sinha
and Ms.Perna Chopra, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.Vinod Diwakar, APP.
Mr.Pooja Yadav, Proxy for
Mr.Sudhershnan Kumar, Advocate for
Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

P.S.TEJI, J. (Oral)

1. The present petition under Section 482 Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Dinesh Kumar, for quashing of FIR No. 39/2012, under Sections 448/420/468/471/120-B of Indian Penal Code registered at Police Station Rajouri Garden, New Delhi on the basis of settlement arrived at between the petitioner and respondent No.2 namely, Sudhir Dabas at New Delhi.

2. The petitioner, present in the Court has been identified to be the complainant/first-informant of the FIR in question by his counsel.

3. Petitioner – Dinesh Kumar is present in the Court and submitted that
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the dispute between the parties has been amicably resolved and he has no grievance or grudge against the respondent no.2 and thus the petitioner does not want to proceed in the FIR in question. The dispute in question relates to the property No.WZ-106/123, Rajouri Garden Extension, New Delhi. The petitioner had filed a suit for possession being CS(OS) No. 1039/2012, which was disposed of by this Court on 17.2.2014 in terms of compromise/settlement arrived at between the parties and consequently, the possession whereof was handed over by the respondent No.2 in favour of the petitioner. Counsel for the petitioner contended that since the petitioner has now recovered the possession of the property in question, and has settled all his disputes and grievances, therefore he does not wish to pursue the present complaint as well as the FIR in question and he prays for withdrawal of the complaint being No.12042/2011 under Section 442/448 IPC read with Section 156(3) of Cr. P.C. and quashing of the FIR No.39/2012 and the proceedings emanating therefrom. The present petition is also accompanying the affidavit of petitioner affirming the contents of the present petition. In the affidavit the petitioner has stated that he has no objection if the FIR in question is quashed.

4. Since all the disputes and differences have been resolved through

mutual consent and now no dispute between the parties survives and so, the proceedings arising out of the FIR in question be brought to an end. Statement of the petitioner has been recorded in this regard in which he stated that the disputes between the parties have now been settled with respondent No.2. He further stated that he has no objection if the FIR in question is quashed.

5. In ***Gian Singh v. State of Punjab (2012) 10 SCC 303*** Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

“61. 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 proceedings or continuation of criminal proceedings 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 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 proceedings.”

6. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in ***Narinder Singh v. State of Punjab (2014) 6 SCC 466***. The relevant observations of the Apex Court in ***Narinder Singh (Supra)*** are as under:-

“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.”*

7. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The present case relates to property dispute between the parties, which has now amicably settled between the parties and no dispute of any nature is now pending between them.

8. Since the matter has been settled between the parties amicably, therefore, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. The parties have already settled down the matter. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

9. The incorporation of inherent power under Section 482 Cr.P.C. is

meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

10. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of *State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors. MANU/SC/0842/2014* and in the case of *Inder Singh Goswami v. State of Uttaranchal MANU/SC/0808/2009* has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

11. It is also a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquillity and where it feels that quashing of such

proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of ***B.S. Joshi and others v. State of Haryana and another 2003 (4) SCC 675*** the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offences under Sections 468 and 471 IPC are non-compoundable offences, there should be no impediment in quashing the

FIR under these sections, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

12. In the present case, the offences punishable under Section 468/471 of IPC are non-compounding and obstructing the settlement. As the petitioner has already settled the disputes mentioned in present FIR, therefore, the pendency of the proceedings need to be put to end. So, in the present scenario, the petitioner has already made the statement regarding his prayer to quash the FIR in question, therefore, this court is of the opinion that the FIR in question and proceedings emanating therefrom ought to be quashed.

13. Accordingly, the FIR No.39/2012, under Sections 448/420/468/471/120-B of Indian Penal Code registered at Police Station Rajouri Garden, New Delhi and the proceedings emanating therefrom are quashed.

14. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

OCTOBER 16, 2015
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