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

Judgment delivered on: 1st July, 2015

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CRL.M.C.No.2579/2015

NARENDER PAL ARORA

..... Petitioner

Represented by: Mr.Saurabh Kaushik, Mr. Arun
Gaur and Mr.Sunil Kalra,
Advocates.

Versus

THE STATE (GOVT OF NCT OF DELHI) & ANR... Respondents

Represented by: Mr.M.N.Dudeja, Additional
Public Prosecutor for the State with
SI Amarjeet Singh, PS Geeta
Colony.

Mr. Samson Honey, Advocate for
the Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

The present matter is received on transfer.

Crl.M.A. No.9215/2015(for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

CRL.M.C. 2581/2015

1. Vide the present petition, the petitioner seeks quashing of
FIR No.309/2015, registered at Police Station Geeta Colony, under
Sections 354/509/323/34 IPC.

2. The aforesaid case was registered on the statement of respondent No.2, who stated that when she went to Rolling Point Non-veg shop situated at 17/93, Geeta Colony, Delhi, one person resident of upper floor of said property, namely, Narender Arora (petitioner herein) misbehaved with her. When she went to the police station to get register the FIR against the said person, he alongwith 15 to 20 associates came there. She further states that while entering the police station, they misbehaved and beat her in the police station. Accordingly, she lodged a complaint and same was culminated into FIR mentioned above.

3. On the other hand, case of the petitioner is that on 21.05.2015, petitioner got registered an FIR bearing No.307/2015 at Police Station Geeta Colony for the offence punishable under Section 307 IPC against the tenants of respondent No.2, namely, Vishesh and Tarun and that the present FIR is a counter-blast of the FIR mentioned above.

4. However, with the intervention of the respectable persons of the locality, the petitioner, respondent No.2 and above named tenants, Vishesh and Tarun have amicably settled their disputes. Accordingly, FIR No.307/2015 which was registered against Vishesh and Tarun and all proceedings emanating thereto has been quashed by this Court in case bearing Crl.M.C. No. 2581/2015 vide its order dated 01.07.2015.

5. Thus, the respondent No.2 has settled the disputes with the petitioner and does not want to pursue the instant case further. The

Compromise Deed to this effect is annexed as Annexure P-2 at page 23 of the paper book.

6. The respondent No.2 is present in Court and submits that she does not want to pursue the case against the petitioner further. The respondent No.2 and the petitioner were staying in the same locality and want to give quietus to the enmity going on. As the common friends and members of the locality have intervened, the respondent No.2 has decided not to pursue the case and if this Court does not allow the present petition, it will be grave injustice to her. More so, she will face disgrace in the locality and the said enmity will continue.

7. The respondent No.2 further submits that she has not compromised the matter with the petitioner out of any coercion, fear or pressure, however, she has entered into the same out of her own free will and consent and has prayed the Court to do the needful to give quietus to the matter.

8. Undisputedly, offence punishable under Section 354 IPC is non-compoundable, however, considering the facts and circumstances of the case and in exercise of the inherent powers under Section 482 of the Code of Criminal Procedure, 1973, this Court has power to accept the compromise. This issue has been decided by the Constitution Bench of the Supreme Court in the case titled as *Gian Singh Vs. State of Punjab and Another (2012) 2 SCC (L&S)998*, wherein held as under:

“58. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under Indian Penal Code or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have

settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

59. B.S. Joshi : (2003) 4 SCC 675, Nikhil Merchant : (2008) 9 SCC 677, Manoj Sharma (2008) 16 SCC 1 and Shiji alias Pappu (2011) 10 SCC 705 do illustrate the principle that High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power Under Section 482 of the Code and Section 320 does not limit or affect the powers of the High Court Under Section 482. Can it be said that by quashing criminal proceedings in B.S. Joshi : (2003) 4 SCC 675, Nikhil Merchant : (2008) 9 SCC 677, Manoj Sharma (2008) 16 SCC 1 and Shiji alias Pappu (2011) 10 SCC 705, this Court has compounded the non-compoundable offences indirectly? We do not think so. There does exist the distinction between compounding of an offence Under Section 320 and quashing of a criminal case by the High Court in exercise of inherent power Under Section 482. The two powers are distinct and different although ultimate

consequence may be same viz., acquittal of the accused or dismissal of indictment.

60. *We find no incongruity in the above principle of law and the decisions of this Court in Simrikhia : (1990) 2 SCC 437, Dharampal : 1993 Cri. L.J. 1049, Arun Shankar Shukla : AIR 1999 SC 2554, Ishwar Singh : (2008) 15 SCC 667, Rumi Dhar (Smt.). : (2009) 6 SCC 364 and Ashok Sadarangani JT 2012 (3) SC 469. The principle propounded in Simrikhia: (1990) 2 SCC 437 that the inherent jurisdiction of the High Court cannot be invoked to override express bar provided in law is by now well settled. In Dharampal : 1993 Cri. L.J. 1049, the Court observed the same thing that the inherent powers Under Section 482 of the Code cannot be utilized for exercising powers which are expressly barred by the Code. Similar statement of law is made in Arun Shankar Shukla : AIR 1999 SC 2554. In Ishwar Singh : (2008) 15 SCC 667, the accused was alleged to have committed an offence punishable Under Section 307, Indian Penal Code and with reference to Section 320 of the Code, it was held that the offence punishable Under Section 307 Indian Penal Code was not compoundable offence and there was express bar in Section 320 that no offence shall be compounded if it is not compoundable under the Code. In Rumi Dhar (Smt.)²⁸ although the accused had paid the entire due amount as per the settlement with the bank in the matter of recovery before the Debts Recovery Tribunal, the accused was being proceeded with for commission of offences Under Section 120-B/465/467/468/471 of the*

Indian Penal Code along with the bank officers who were being prosecuted Under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act. The Court refused to quash the charge against the accused by holding that the Court would not quash a case involving a crime against the society when a prima facie case has been made out against the accused for framing the charge. Ashok Sadarangani JT 2012 (3) SC 469 was again a case where the accused persons were charged of having committed offences Under Sections 120-B, 465, 467, 468 and 471, Indian Penal Code and the allegations were that the accused secured the credit facilities by submitting forged property documents as collaterals and utilized such facilities in a dishonest and fraudulent manner by opening letters of credit in respect of foreign supplies of goods, without actually bringing any goods but inducing the bank to negotiate the letters of credit in favour of foreign suppliers and also by misusing the cash-credit facility. The Court was alive to the reference made in one of the present matters and also the decisions in B.S. Joshi : (2003) 4 SCC 675, Nikhil Merchant: (2008) 9 SCC 677 and Manoj Sharma (2008) 16 SCC 1 and it was held that B.S. Joshi : (2003) 4 SCC 675, and Nikhil Merchant : (2008) 9 SCC 677 dealt with different factual situation as the dispute involved had overtures of a civil dispute but the case under consideration in Ashok Sadarangani JT 2012 (3) SC 469 was more on the criminal intent than on a civil aspect. The decision in Ashok Sadarangani JT 2012 (3) SC 469 supports the view that the

criminal matters involving overtures of a civil dispute stand on a different footing.

61. 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 favour 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.”

9. From the above noted facts, it has come out in the present case that the petitioner and the respondent No.2 were staying in the same locality and there was some altercation of the petitioner with

Vishesh and Tarun, against whom the petitioner got registered an FIR bearing No.307/2015 for the offence punishable under Section 307/34 IPC at the same Police Station. The said FIR was registered on 21.05.2015, whereas the present FIR was registered on 22.05.2015. However, the parties have amicably settled their disputes and have compromised both the matters. Both the parties have placed on record the settlement deeds.

10. As discussed above, offence punishable under Section 354 IPC is not compoundable, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties has been put to an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

11. In view of the aforesaid discussion and settled law, without commenting upon the situation of the case whether it is a counter-blast of FIR No.307/2015 or not, and considering the settlement and statement made by the respondent No.2, I am of the considered opinion that to secure the ends of justice and to maintain peace and harmony in the locality and in the interest of justice as well, it is appropriate that this case is put to an end.

12. Accordingly, I hereby quash the FIR No.309/2015, registered at Police Station Geeta Colony for the offences punishable under

Sections 354/509/323/34 IPC and the proceedings emanating thereto, if any, against the petitioner.

13. In view of the above, the present petition is allowed.

14. A copy of this order be given *dasti* to the counsel for the parties.

SURESH KAIT, J.

JULY 01, 2015

Sb/jg