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

\+ CRL.M.C. 2954/2015

Date of Decision : November 27th, 2015

RAKESH KUMAR GUPTA & ORS ..... Petitioners
Through Mr.Naresh Kumar, Adv.

versus

STATE (NCT OF DELHI) & ORS ..... Respondents
Through Mr.G.M. Farooqui, APP for the State.
Mr.Amar Nath Saini, Adv.
Respondent nos.2, 3 & 4 in person.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioners, namely, Sh. Rakesh Kumar Gupta, Sh. Sanjeev Nayyar, Sh. Manoj Malyan, Sh. Rajender Malyan, Sh. Vijay Anand and Smt. Kapila Rathi for quashing of FIR No.180/2010 dated 06.07.2010, under Sections 323/342/452/506/34 IPC registered at Police Station Ashok Vihar, Delhi on the basis of the mediation report of the Delhi Mediation Centre, Tis Hazari Courts, Delhi arrived at between the petitioners and respondent nos.2, 3 & 4, namely, Sh. Manoj Sharma, Smt. Sumitra Sharma and Sh. Deepak Sharma at New

Delhi on 26.02.2015**.**

2. Learned Additional Public Prosecutor for respondent-State submitted that the respondent nos.2 to 4, present in the Court have been identified to be the victims in the present FIR by their counsel.

3. Respondent Nos.2 to 4 present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the mediation report, it is agreed that the temple in dispute managed and looked after by Shri Balaji Mandir Sewa Trust and its office bearers shall continue to be under the management, control, supervision and possession of Shri Balaji Mandir Sewa Trust and all other parties herein shall not have any concern with the said temple in any manner. It is also agreed between the parties that Sh. Vijay Anand shall move an application in connected cases for withdrawal of the case and Sh. Manoj Sharma shall move an application for the withdrawal of the appeal. It is also agreed that the FIR in question shall be quashed with the co-operation of the complainant, Sh. Manoj Sharma and his mother, Smt. Sumitra Sharma. It is also agreed that Sh. Manoj Sharma and his mother shall withdraw the connected complaint case filed under Section 200 r/w section 156(3) Cr.P.C. Respondent nos. 2 to 4

affirms the contents of the aforesaid compromise deed and their independent affidavits dated 16.07.2015 supporting this petition. In their affidavits the respondents have stated that they have no objection if the FIR in question is quashed. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end. Statements of the respondent Nos.2 to 4 have been recorded in this regard in which they stated that they have entered into a compromise with the petitioners and have settled all the disputes with them. They further stated that they have no objection if the FIR in question is quashed.

4. 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."

5. 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:
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> **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.
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> **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:
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> (i) ends of justice, or
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> (ii) to prevent abuse of the process of any court.
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> While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.
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> **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.
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> **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.

6. 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 respondent no.2 along with respondent nos.3 & 4 agreed to the quashing of the FIR in question and have stated that the matter has been settled out of their own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. 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.

7. 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.

8. 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.

9. It is 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 offence under Section 452 IPC is non-

compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

10. In the facts and circumstances of this case and in view of statements made by the respondent Nos.2 to 4, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

11. Accordingly, this petition is allowed and FIR No.180/2010 dated 06.07.2010, under Sections 323/342/452/506/34 IPC registered at Police Station Ashok Vihar, Delhi and the proceedings emanating therefrom are quashed against the petitioners.

12. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

NOVEMBER 27, 2015
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