

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3959/2015**

Date of Decision : December 04th, 2015

SHRI AFZAL Petitioner
Through Mr.Abid Ibrahim, Adv.
versus

THE STATE (GOVT OF NCT OF DELHI) & ANR ... Respondents
Through Mr.Arun K. Sharma, APP for the
State.
Mr.Deepak Jain, Adv. with
Ms.Varnika Singh, Adv. for R-2 with
Ms.Jaya Thakuria, Manager (Legal).

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 petitioner, namely, Shri Afzal for quashing of FIR No.1222/2014 dated 25.12.2014, under Section 135 of the Indian Electricity Act (Amend.), 2003 registered at Police Station Amar Colony on the basis of the compromise arrived at between the petitioner and respondent no.2-BSES Rajdhani Power Ltd. (through its legal representative).

2. Learned Additional Public Prosecutor for respondent-State submitted that the Ms. Jaya Thakurai, present in the Court, presently

working as Manager (Legal) with BSES Rajdhan Power Ltd. has been identified as the authorized legal representative of the said Company by her counsel.

3. Ms. Jaya Thakurai, legal representative of respondent no.2 submitted that the dispute between the parties has been amicably resolved. An affidavit of Ms. Jaya Thakurai dated 03.11.2015 has been placed on record. As per the affidavit, she declared that based on the inspection dated 21.03.2014, Assessment Bill for Direct Theft dated 26.03.2014 amounting to Rs.55,099/- was raised against the petitioner. Further it has been stated that the petitioner has paid all the dues to the respondent no.2 on 23.03.2015 vide receipt no. 040032276816 and obtained the No Dues certificate. It has also been stated that the respondent no.2 has no objection in case the FIR in question is quashed. Legal Representative of respondent no.2 affirms the contents of the aforesaid compromise and the said affidavit supporting this petition. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioner survives and so, the proceedings arising out of the FIR in question be brought to an end. Statement of the Ms. Jaya Thakurai has been

recorded in this regard in which she stated that respondent no.2 has entered into a compromise with the petitioner and has settled all the disputes with him. She further stated that respondent no.2 has 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:

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.

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. 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.

10. In the facts and circumstances of this case and in view of statement made by Ms. Jaya Thakurai, 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.1222/2014 dated 25.12.2014, under Section 135 of the Indian Electricity Act (Amend.), 2003 registered at Police Station Amar Colony and the proceedings emanating therefrom are quashed against the petitioner.

12. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

DECEMBER 04, 2015
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