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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2524/2015**
SURINDER PAL SINGH

..... Petitioner

Through: Mr. R.K. Singla, Adv.

versus

STATE & ANR

..... Respondent

Through: Mr. Ashish Aggarwal, ASC for the
State

Inspector Kehar Singh, PS Janakpuri
Mr. Balvinder Ralhan and Mr. Harsh Khanna,
Adv. for the complainant along with complainant
in person.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **03.11.2015**

Crl. M.A.16146/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2524/2015

The petitioner seeks quashing of FIR No.226/2015 (P.S. Janakpuri) instituted for offences under Sections 406, 420, 506 and 34 of the IPC.

It has been submitted on behalf of the petitioner that there was an agreement between the petitioner and respondent No.2 for sale and purchase of their respective properties viz. a flat bearing No.T-5-501 on the 5th Floor of Tower No.T-5 of Parasvnath Paramount building having an approximate

area of 1942 sq. ft. which belongs to respondent No.2 as well as the property of the petitioner namely the entire 2nd floor without roof rights of the freehold built up property at plot No.132 in Janakpuri.

It was agreed upon between the petitioner and respondent No.2 that the properties belonging to them would be exchanged in favour of each other and the balance consideration of Rs.75 lakhs would be paid to respondent No.2.

Pursuant to such an agreement, Rs.60 lakhs was paid to respondent No.2 on different dates. The balance amount of Rs.15 lakhs was required to be paid at the time of possession and execution of sale deeds of respective properties of both the parties.

At that stage, some dispute arose between the parties and a civil suit bearing CS(OS) No. 1727/2014 for specific performance was preferred by respondent No.2. Simultaneously, FIR No.226/2015 was also lodged at P.S. Janakpuri against the petitioner. Pursuant to such FIR, the petitioner was arrested but was granted bail. The matter was referred to the Mediation Centre, Tis Hazari Courts while hearing the bail application of the petitioner.

At the Mediation Centre, the dispute was amicably settled and the petitioner agreed to pay a sum of Rs.65 lakhs towards full and final claim of respondent No.2. Out of the aforesaid agreed amount, a sum of Rs.10 lakhs was paid forthwith whereas a sum of Rs.43 lakhs was required to be paid in the civil suit during the hearing of civil suit preferred by the petitioner.

It was further agreed upon that the remaining amount would be paid at the time when respondent No.2 would facilitate the quashing of the subject FIR (FIR No.226/2015) lodged at his instance. The balance amount of Rs.12 lakhs is now being paid to respondent No.2 by way of a demand draft

in court. The same has been accepted. The respective obligations of the parties, pursuant to the settlement, have already been fulfilled.

Considering the fact that the dispute is completely inter personal in nature as the parties had decided to swap their respective properties where the respondent No.2 had to get some money while exchanging his flat with the property of the petitioner, this Court is of the opinion that no useful purpose would be served in allowing the proceedings to be continued any further.

In ***Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303***, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

The Supreme Court has further observed in *Gian Singh vs. State of Punjab & Another* (Supra):

“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the 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 the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the 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 the victim and the offender and the 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 FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the 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.”

[Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

In *Narinder Singh & Ors. Vs. State of Punjab & Anr.* (2014) 6 SCC 466,
the pertinent observations of the Apex Court 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:

(v) ends of justice, or

(vi) 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.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High

Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial

court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

Thus, the inherent powers of the High Court, having a wide plenitude could be used for quashing the FIR for securing the ends of justice and to prevent the abuse of the process of the court.

Keeping in mind the facts of this case and the settlement between the parties, allowing the criminal proceeding to be continued any further would not be in accord with the guiding factor namely securing the ends of justice.

For the reasons aforerecorded FIR No.226/2015 (PS Janakpuri) and all the emanating proceedings thereof are quashed.

The petition is disposed of in terms of the above.

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ASHUTOSH KUMAR, J

NOVEMBER 03, 2015

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