

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

+ **CRL.M.C. 333/2014**

Date of Decision: March 02nd, 2016

GULSHAN GROVER Petitioner
Through Mr.Manoj Sharma, Adv.

versus

THE STATE & ANOTHER Respondent
Through Mr.Mukesh Kumar, APP for the State
with SI Sudhir, PS Keshav Puram.
Mr.Satinder Singh Bawa, Adv. with
Mr.Gaurav Kumar Dahiya, authorised
representative of respondent no.2 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 petitioner, namely, Sh. Gulshan Grover for quashing of FIR No.239/2013 dated 16.08.2013, under Section 409 IPC registered at Police Station Keshav Puram on the basis of the compromise deed arrived at between the petitioner and the respondent no.2, namely, M/s. India Infoline Finance Ltd., 71/3, Rama Road, Moti Nagar, New Delhi-110059 through its Vice President V.P. Singh on 13.12.2013.
2. Learned Additional Public Prosecutor for respondent-State

submitted that Sh. Gaurav Kumar Dahiya (Manager-Legal), present in the Court has been identified to be authorized representative of respondent no.2 in the FIR in question by his counsel.

3. The factual matrix of the present case is that the complainant, namely, Tara Chand lodged the FIR in question on the allegation that on 24.07.2013, the complainant, the team manager and the branch manager Gulshan Grover were present at Kanhaiya Nagar Branch and at about 3:20 pm, Gulshan Grover called his brother and he took out Rs. 2 lacs from the vault room and gave it to his brother. The complainant apprised about the whole incident to Sh. Satvir Dahiya-Senior Vigilance Manager, who directed the complainant to report the matter to PCR.

Thereafter, the FIR in question was lodged against the petitioner. The petitioner herein moved an anticipatory bail application under Section 438 Cr.P.C. which was allowed. During the pendency of the same, the parties reached to an amicable settlement.

4. Sh. Gaurav Kumar Dahiya, the authorized representative of respondent No.2, present in the Court submitted that the dispute between the parties has been amicably resolved. As per the

compromise deed, petitioner has agreed to pay Rs. 2 Lacs in two installments by way of DD/Banker's Cheque on 19.12.2013, before the Hon'ble Court where his bail application will be listed which will be without prejudice to the rights of both parties. It is also agreed that respondent no.2 shall clear all dues if any of the petitioner with respect to his salary and other dues and incentives within 30 days from the said deed and pay the same by way of transfer in his bank account as per the HR policy of code of conduct policy of respondent no.2. It is also agreed that respondent no.2 shall not have any objection in grant of anticipatory bail to the petitioner, if the petitioner were to comply with the compromise deed. It is further agreed that the respondent no.2 shall cooperate in getting the FIR in question quashed before this Court. It is further agreed that respondent no.2 shall issue relieving letter to the petitioner along with the payment of his dues as mentioned in clause 3 of the compromise deed. It is agreed that the parties have amicably resolved all disputes out of Court and have agreed not to file any further complaint towards each other in the Court or before any other authority by anybody on behalf of either parties or elsewhere in future. Sh. V.P. Singh (Vice President) of

respondent No.2, affirmed the contents of the aforesaid settlement in his affidavit dated 10.01.2014 supporting this petition. As per the affidavit filed on behalf of respondent no.2, it has been stated that all disputes with the petitioner have been settled and that respondent.2 has no objection if the FIR in question is quashed. 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 Sh. Gaurav Kumar Dahiya (Manager-Legal) of the respondent No.2, has been recorded in this regard in which he stated that respondent no.2 has entered into a compromise with the petitioner and has settled all the disputes with him. He further stated that respondent no.2 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. Sh. Gaurav Kumar Dahiya agreed to the quashing of the FIR in question and has stated that the matter has been settled out of the free will of respondent no.2. 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.

8. 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.

9. 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. 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 409 IPC is a 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.

11. In the facts and circumstances of this case and in view of statement made by the respondent No.2, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

12. Accordingly, this petition is allowed and FIR No.239/2013 dated 16.08.2013, under Section 409 IPC registered at Police Station Keshav Puram and the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 02, 2016
dd