

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 75/2016**

Date of Decision: May 23rd, 2016

BHARAT SINGH RAWAT Petitioner
Through **Mr.Sanjeev K. Baliyan, Adv. for**
Mr.Vijay Kinger, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondents
Through **Mr.Rajat Katyal, APP for the State.**
SI Vishvendra, PS Seemapuri.
Mr.Bajrang Vats, Adv. with
Mr.Sudhir Dixit, Adv. for R-2.

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.Bharat Singh Rawat for quashing of FIR No.192/2012 dated 04.06.2012, under Sections 405/406/415/418/420/423/467/471/120B/34 IPC registered at Police Station Seema Puri on the basis of the Memorandum of Understanding executed in between the petitioner and respondent no.2, namely, Smt.Uma Arora on 23.05.2015.

2. Learned Additional Public Prosecutor for respondent-State submitted that the respondent no.2, present in the Court has been identified to be the complainant/first informant in the FIR in question by her counsel.

3. The factual matrix of the present case is that the FIR in question was lodged by the complainant on the allegation that accused no.1 in

the FIR in question sold one flat bearing No. B-104/1, Ground Floor, up to ceiling level area measuring 94 sq. yds., out of the total area measuring 282 sq. yds. situated at Dilshad Extn No.1 now known as Dilshad Colony, twice illegally to accused no.2 in connivance and collusion in order to cause wrongful gain to themselves. That at the time when the accused No.4 approached the complainant and her husband for the sale of the said flat, accused no.4 represented to the complainants that accused no.4 is a practicing lawyer at DRT and that he deals with property matters day in and day out. Accused no.4 represented to the complainant and her husband that the flat is free from all encumbrances such as sale, mortgage, debt, lease, charges, lien, court injunctions, surety, security, family dispute, litigation etc. and that there is no legal defect in the title of the vendor or power to sell the same. Accused no.4 assured that if it is proved otherwise, accused no.4 shall be liable to pay all costs and damages incurred by the complainant and her husband if incurred. Believing in the false assurance and statement made by accused no.4, the complainant and her husband purchased the aforesaid flat from accused no.4 by investing their life savings. All accused nos. 1 to 4 along with other unknown persons being well aware of the fact that the aforesaid property was sold in 2004 and being mortgaged with SCB, again sold the same flat in 2005 illegally.

Thereafter, the respondent no.2/complainant filed a complaint on the basis of which, the FIR in question was registered against the petitioner. The charge sheet was filed and charges were framed against the petitioner/ accused no.2. The parties arrived at an amicable

settlement with each other on 23.05.2015.

4. Respondent No.2 present in the Court submitted that the dispute between the parties has been amicably resolved with the intervention of respectable persons of the society. As per the MOU, it is agreed between the parties that Smt. Hem Lata Negi is the only witness and that she has been discharged at the time of charge. It is also agreed that the petitioner shall pay a sum of Rs.6.5 Lakhs to respondent no.2 towards full and final settlement in regard to the FIR in question. It is also agreed that the schedule of payment shall be as enunciated in the terms of the MOU. It is also agreed that a sum of Rs. 1 Lakh has been received by respondent no.2 by way of DD No. 901699 dated 19.07.2014 and that Rs. 2.5 Lakhs shall be received by respondent no.2 at the time of granting bail before the Hon'ble Court. It is also agreed that the remaining amount of Rs. 3 Lakhs shall be paid by way of postdated cheques bearing no. 067094 dated 01.09.2015 and no. 067093 dated 01.01.2016 for Rs. 1.5 Lakhs each respectively issued by Bank of Maharashtra vide account no.000006000346471 in the name of Smt. Hem Lata Negi (sister-in-law) of the petitioner. It is also agreed that quashing petition for the FIR in question shall be filed subject to the encashment of the above mentioned cheques. It is also agreed that respondent no.2 shall cooperate with the petitioner for grant of bail before the concerned Court. It is agreed that respondent no.2 shall cooperate with the petitioner for the quashing of the FIR in question before this Court. It is also agreed that the petitioner shall abide by the terms and conditions before DRT order dated 22.08.2014 in future. It is also agreed that the petitioner shall not file or claim

against the respondent no.2 in future in any manner against the property bearing no. B-104/1, Ground Floor, Dilshad Colony, Delhi-110095. It is also agreed that the petitioner has informed respondent no.2 and her husband that the above said cheque of Rs. 1.5 Lakhs shall not be encashed and requested not to present the cheque in the bank and that the petitioner shall pay the total remaining amount of Rs. 3 Lakhs at the time of quashing of the FIR in question. It is also agreed that the parties shall not file any suit or proceedings before a Court or any other authority with respect to the said dispute. Respondent no. 2 affirmed the contents of the aforesaid settlement. 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 respondent no.2 has been recorded in this regard in which she stated that she has entered into a compromise with the petitioner and has settled all the disputes with him. She further stated that she 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. The respondent no.2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of her 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.

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 tranquility 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 that the offences under Sections 405/415/467/471 IPC are non-compoundable offences, there should be no impediment in quashing the FIR under these sections, 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.192/2012 dated 04.06.2012, under Sections 405/406/415/418/420/423/467/471/120B/34 IPC registered at Police Station Seema Puri and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MAY 23, 2016/dd