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

\+ CRL.M.C. 431/2016 & Crl. M.A. No.1828/2016

Date of Decision : April 28th, 2016

RAJ KUMAR & ORS ..... Petitioner

Through: Mr.Harsh Chauhan and
Mr.L.Mendiratta, Advs.

versus

THE STATE GOVT OF NCT OF DELHI & ORS .... Respondent

Through: Mr.Rajat Katyal, APP.
Mr.Sunil Kumar and Mr.Rakesh Tanwar, Advs. for R-2 & R-3.

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. Raj Kumar, Sh. Manoj Kumar and Sh. Sunil for quashing of FIR No.615/2013 dated 15.12.2013, under Section 308/34 IPC registered at Police Station Saraswati Vihar/ Subhash Place on the basis of the Memorandum of Understanding (MOU) arrived at between petitioners and respondent nos.2 & 3 namely, Sh. Teekam Singh @ Teeka Ram @ Tikka Singh and Sh. Karan Singh, respectively along with Sh. Bharat and Sh. Mohan on 16.11.2015.

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 and respondent no.3 has been identified to be the victim in the FIR in question by SI Baljeet Singh.

3. The factual matrix of the present case is that the FIR in question was lodged by the complainant on the allegation that on 15.12.2013 at about 2:30 pm, there was tent installed in front of his house due to a function and Manoj parked his M/C there. The brother of the complainant Karan asked Manoj to remove his M/C on which he started beating Karan. The complainant also reached there and the younger brother of Manoj and his mother also came there. The accused persons caught hold of the complainant and Dayawati threw a brick upon him but the complainant was saved. The accused persons then attacked on the wrist of the complainant and on the head of his brother with sticks. They even attacked on the head of the brother of the complainant with a rod.

Subsequently, with the intervention of the common friends, relatives and well-wishers of the parties, the matter was amicably settled.

4. Respondent Nos.2 & 3 present in the Court submitted that the dispute between the parties has been amicably resolved. As per the MOU, it is agreed between the parties that the respondent nos. 2 & 3 along with Sh. Bharat and Sh. Mohan shall cooperate with the petitioners in quashing the FIR in question. It is also agreed that the petitioners shall cooperate with the respondent nos. 2 & 3 along with Sh. Bharat and Sh. Mohan in quashing the FIR No.612/2013 dated 15.12.2013 under Section 308/34 IPC at P.S. Subhash Place before

this Court. It is further agreed that after execution of the MOU, all the parties shall not make any statement, complaint etc. against each other. Both the parties shall not rebuke each other in public or in private. Respondent nos. 2 & 3 affirmed the contents of the aforesaid settlement and also affirmed the contents of their individual affidavits dated 06.01.2016 supporting this petition. In their individual affidavits, the respondent nos.2 & 3 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 & 3 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.

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:
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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.

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 nos.2 & 3 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.

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 that the offence under Section 308 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 statements made by the respondent nos.2 & 3, 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. 615/2013 dated 15.12.2013, under Sections 308/34 IPC registered at Police Station Saraswati Vihar/Subhash Place and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

14. The application Crl. M.A. No.1828/2016 is also disposed of.

(P.S.TEJI)
JUDGE

APRIL 28, 2016
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