

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

+ **CRL.M.C.535/2016 & CrI.M.C. No.2225/2016**

Date of Decision : March 29th, 2016

SHAMSHER SINGH

..... Petitioner

Through Mr.Mukesh Singh, Adv.

versus

STATE (NCT OF DELHI) & ORS

..... Respondent

Through Ms.Manjeet Arya, APP for the State

Ms.Lucky Tiwari, Adv. with
respondent nos.2 to 5 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.Shamsher Singh for quashing of FIR No.183/2014 dated 23.02.2014, under Sections 288/337/304A IPC registered at Police Station Aman Vihar on the basis of the compromise deed arrived at between the petitioner and respondent nos.2 & 3 namely, Sh.Ram Babu and Smt.Savitri, respectively, on 02.11.2015.

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 to 5, namely, Smt.Savitri, Smt.Rampyari and Jamuna Prasad, respectively, to be the victims in the FIR in question by their counsel.

3. The factual matrix of the present case is that the FIR in question

was lodged by the complainant on the allegation that on 23.02.2014, he along with his companion Anandi were engaged to break the house of the owner Shamsher. Since 21.02.2014, both the persons were doing the same and during the day time, the petitioner/owner asked them to break the roof of the house immediately. In the evening, the petitioner asked them to finish the job as very little work was left to be done. The complainant asked the petitioner to install a light as it was dark but the petitioner ignored his request. At about 8:30 pm, due to darkness, the complainant and Anandi fell down from the roof due to which they received injuries.

The injured were taken to hospital, where, Anandi was declared as brought dead as he had fallen on the drill machine lying below in the debris. Respondent no.3 is the widow of Anandi. The petitioner and the respondent nos. 2 & 3 have been maintaining good relations and both the parties have entered into an amicable settlement.

4. Respondent nos. 2-5 present in the Court submitted that the dispute between the parties has been amicably resolved. As per the compromise deed, it is agreed that the parties shall live peacefully hereinafter. It is agreed that the parties shall withdraw all the complaints/applications, if any, filed in any police station/authority against the petitioner. It is agreed that the petitioner is ready to pay a total settlement amount of Rs. 3.5 Lakhs to the respondent nos. 2 & 3. It is agreed that the schedule of payment and the division of settlement amount shall be as enunciated in the terms of the compromise deed. It is agreed that the respondent nos. 2 & 3 shall cooperate with the petitioner in getting the FIR in question quashed by getting their

statements recorded and appearing as and when required before this Court. It is also agreed that the respondent nos. 2 & 3 shall withdraw the case in the FIR in question which is pending trial before the Court of Ld. MM, Rohini Court, Delhi and record their respective statement. It is also agreed that the respondent nos. 2 & 3 shall appear as and when required before the Court of Ld. MM, Rohini as and when required. Respondent nos. 2-5 affirmed the contents of the aforesaid settlement. Respondent nos. 2 & 3 also affirmed the contents of their affidavits dated 02.02.2016 supporting this petition. In the 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 petitioner survives and so, the proceedings arising out of the FIR in question be brought to an end. Statements of the respondent nos. 2-5 have been recorded in this regard in which they stated that they have entered into a compromise with the petitioner and have settled all the disputes with him. 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:

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 nos.2-5 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 offences under Sections 288/304A 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 statements made by respondent nos.2-5, 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.183/2014 dated 23.02.2014, under Sections 288/337/304A IPC registered at Police Station Aman Vihar and the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of.

14. Application CrI.M.C. No.2225/2016 is also disposed of.

(P.S.TEJI)
JUDGE

MARCH 29, 2016/dd