

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

+ CRL.M.C. 997/2014

Date of Decision : February 05th, 2016

RISHI NARULA

..... Petitioner

Through Mr. Yogesh Swaroop and Ms. Asha
Garg, Advs.

versus

STATE(NCT OF DELHI) & ORS

..... Respondent

Through Mr. Arun Kr. Sharma APP.
Mr. Abhijit Puri, 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, Mr. Rishi Narula for quashing of FIR No.41/2014 dated 25.01.2014, under Sections 420/419 IPC & Sections 66/66C/66D Information Technology Act registered at Police Station Kirti Nagar on the basis of the compromise deed executed between the petitioner and the respondent no. 2, namely, SBI Cards Payment and Service Pvt. Ltd., Delhi through its authorized signatory-Mr. Mukesh Giri on 22.02.2014.

2. Learned Additional Public Prosecutor for respondent-State

submitted that Mr. J.P.Sundriyal, present in the Court has been identified to be the authorized representative of complainant/first informant-respondent no.2 in the FIR in question by his counsel.

3. The factual matrix of this present case is that the FIR in question was lodged by the complainant on the allegation of misusing the credit cards facility of SBI Cards for unlawful gains by making unsolicited calls to SBI credit cardholders. The complainant is a registered Company. The Company checked the alleged card accounts and found that mobile number and email id was changed and new ones were updated. Later on, on enquiry it was found that the customers never requested the Company to change their mobile number and email. They also informed that they received some phone calls on behalf of SBI card agents asking for card details. The Company is alleged to have never shared customer details to any third party and never instructed any third party to make such calls. On enquiry, merchant Snapdeal informed them that a product of Sony was booked in the name of Mr. Harjit Singh and two other products are yet to be delivered. It was discovered that the said person has caused wrongful loss to the tune of Rs. 1,62,964/- to the said

cardholders. Thereafter the FIR in question was lodged against the petitioner.

The petitioner was in judicial custody since 25.01.2014 and was granted bail thereafter. Later on, the matter was compromised between the parties.

4. Respondent No.2 present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the contents of the Compromise Deed, both the parties have settled the dispute and have agreed that the petitioner shall, prior to the filing of the petition for quashing the FIR in question, make a payment of Rs 36,951/- to respondent no.2 towards the loss suffered by the company/its customers due to the act committed by the petitioner. It is agreed that thereafter the said amount of Rs 36,951/- was paid by the uncle of the petitioner vide receipt no. 17489301 of a sum of Rs.29,820/- and receipt no. 1749302 of a sum of Rs. 5,897/- on 31.01.2014. It is further agreed that as per the instructions of respondent no.2 that the remaining amount of Rs. 1,231 has been deposited by the petitioner and duly received and acknowledged by respondent no.2 vide receipt no. 17489303 on 11.02.2014. It has also

been agreed that respondent no.2 has received direct credit back from the merchants (Snapdeal/Mega deals) for an amount of Rs. 1,12,910/-. Therefore it is finally agreed between the parties that the respondent no.2 shall not object if the petitioner were to file a quashing petition. The affidavit dated 24.02.2014 of Sh. Mukesh Giri, authorized signatory/authorized representative of respondent no. 2 has been placed on record. Mr. J.P.Sundriyal affirmed the contents of the aforesaid compromise deed and of the said affidavit. In the affidavit, it is stated that respondent no.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. J.P. Sundriyal, authorized signatory/authorized representative of respondent No.2, has been recorded in this regard in which it is stated that the respondent no.2 has entered into a compromise with the petitioner and has settled all the disputes with him. It is further stated that respondent no.2 shall 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 no.2 agreed to the quashing of the FIR in question and has, vide its authorized representative/ authorized signatory, stated that the matter has been settled out of its 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 present case, the offence under Section 420 IPC is an offence compoundable with the permission of this Court as per Section 320 (2) Cr.P.C. Keeping in view, the above mentioned facts and circumstances, the offence under the said section is compounded.

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.41/2014 dated 25.01.2014, under Sections 420/419 IPC & Sections 66/66C/66D Information Technology Act registered at Police Station Kirti Nagar and the proceedings emanating therefrom are quashed against the

petitioner.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

FEBRUARY 05, 2016
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