

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 524/2016**

Date of Decision: August 2nd, 2016
PAWAN KUMAR BANSAL & ORS Petitioners
Through Mr.Arvind Kumar Gupta, Adv. with
Mr.Abhishek Goyal, Adv.
versus
STATE & ORS Respondents
Through Ms.Meenakshi Chauhan, APP for the
State with SI Karambir, PS Narela.
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 petitioners, namely, Sh. Pawan Kumar Bansal, Smt. Suman Lata, Sh. Preetam Kumar Gupta and Sh. Sunil Kumar for quashing of FIR No.188/2012 dated 12.04.2012, under Sections 420/467/468/471/120-B/34 IPC registered at Police Station Narela on the basis of the Memorandum of Understanding arrived at between the petitioners and respondent nos. 2 & 3, namely, Dr. Subhash Bansal and Sh. Rajesh Bansal, respectively along with others.

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 SI Karamvir.

3. The factual matrix of the present case is that there was a family dispute with regard to the estate left behind by Smt. Angoori Devi and Sh. Gurdyal Mal. The FIR in question was lodged by the complainant

on the allegation that the will dated 11.01.2001 executed by Smt. Angoori Devi, which has been produced by the petitioner nos. 1 & 2, is in fact a false and fabricated will. It is alleged that the above said will was registered after the death of Smt. Angoori Devi by the accused persons, with the help of the two alleged attesting witnesses. The said will was registered on 01.06.2001 before the sub-registrar, Pitampura, Delhi and witnessed by Sh. Jai Bhagwan (now deceased) and the petitioner no. 3, Sh. Preetam Kumar. It was further alleged that by virtue of the said will, accused persons were trying to execute gift deed dated 17.05.2010 with respect to the Property bearing no. 2003/1, Bawana Road, Narela, Delhi hereinafter referred to as Property in question.

The complainants submitted their complaints to the S.H.O PS Narela and thereafter to DCP(Outer District) and other higher authorities through various speed posts and upon their inaction, a criminal complaint was made to the Ld. MM, Rohini Courts under whose directions, the FIR in question was lodged. During the pendency of the trial, a Memorandum of Understanding was entered into between the parties.

4. Respondent No.2 present in the Court submitted that the dispute between the parties has been amicably resolved. According to the relevant terms of the said MOU, the parties have agreed that they shall not dispute any further about the right, title and interest accrued in favour of each parties by virtue of the MOU. It is agreed that petitioner nos. 1 and 2 have got right in the properties as per the registered Will dated 11.01.2001, executed by Smt. Angoori Devi,

however, they shall not claim any right, title or interest over such properties which would vest in the share of the other parties to the MOU and the other parties to the MOU shall not challenge the terms and conditions of the MOU and the will dated 11.01.2001 executed by Smt. Angoori Devi. It is agreed that the other parties to the MOU shall not claim any right, title or interest in the property/properties bequeathed by Smt. Angoori Devi to the petitioner nos. 1 and 2 vide WILL dated 11.01.2001, except the properties fallen to the share of Sh. Kailash Chand and respondent nos. 2 and 3. It is agreed that petitioner no. 2 shall not receive any share in the assets left by Sh. Gurdayal Mal and Smt. Angoori Devi. However, the petitioner nos. 1 and 2 would be at the liberty to divide their shares among themselves as per the understanding of the petitioner no. 1 and Sh. Kailash Chand/party no. 1 of the MOU as well as the respondent no. 2 and 3 shall not have any objection in this behalf. It is agreed that Sh. Kailash Chand shall receive the six shops, specifically mentioned in the MOU, as his self-acquired property, which shall, on his demise, devolve upon the respondent nos. 3 and 4 and the petitioner nos. 1 and 2 and the other parties, as mentioned in the relevant term of the MOU, shall not claim any right, title or interest in them. It is agreed the lease deed/rent deed pertaining to the aforesaid six shops, registered/notarized by the petitioner nos. 1 and 2 shall be deemed to be declared as null and void and the same shall not be used by them (or their LRs, agents, GPA/SPA, and representatives) for any purpose in future. It is agreed that the objections filed by the respondent nos. 2 and 3 and Sh. Kailash Chand for registering gift deed w.r.t the property in question

before the sub-registrar VI-B (Narela) shall be withdrawn by them so that the petitioner nos. 1 and 2 and their LR's could file a fresh gift deed in terms of the MOU. It is agreed that after the execution of the MOU, the parties shall withdraw all the cases filed by them against each other and shall not revive the same in future. It is assured by the respondent nos. 2 and 3 and Sh. Kailash Chand that they have not filed any objections w.r.t the property in question before any authority and if any references/ objections are pending before appropriate authority then the same shall be withdrawn by them. The parties shall be bound by the terms of the MOU, as agreed by them and they shall dispute or claim any right, title or interest in the properties/ share fallen to the parties as per the MOU.

Respondent nos. 2 & 3 affirmed the contents of the aforesaid settlement and of their affidavits dated 25.01.2016 supporting this petition. In the affidavit, 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. Statement of the respondent no.2 has been recorded in this regard in which he stated that he has entered into a compromise with the petitioners and has settled all the disputes with them. He further stated that he 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 nos. 2 & 3 agreed to the quashing of the FIR in question and 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 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 offence under Section 467/468/471 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.188/2012 dated 12.04.2012, under Sections 420/467/468/471/120-B/34 IPC registered at Police Station Narela and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

AUGUST 02, 2016
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