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

Judgment delivered on: 04th March, 2016

+ **CRL.M.C. No.951/2016**

JASPAL SINGH

..... Petitioner

Represented by: Ms.Lavisha Kamra, Adv
with petitioner.

versus

THE STATE & ORS

..... Respondents

Represented by: Mr.Satya Narain
Vashisht, APP for the
State with SI Sunil
Kumar, PS Tilak Nagar,
Delhi.
Respondent Nos.2 & 3 in
person.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

1. Vide the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks quashing of FIR No.1476/2015 registered at Police Station Tilak Nagar, Delhi for the offence punishable under Sections 365 of the IPC and the consequential proceedings emanating therefrom against him.

2. Learned counsel appearing on behalf of the petitioner submits that the aforesaid case was registered on the complaint of respondent No.2 out of misunderstanding against petitioner on leaving home by respondent No.3/her daughter to their relative's place without

informing them. Subsequently, respondent No.3 returned to home on 15.10.2015 and nothing untoward incident has been reported by her.

3. By virtue of this petition, the petitioner prays for quashing of the FIR and the proceedings emanating from the same on the ground that the petitioner and respondent Nos.2 & 3 have settled the matter due to the intervention of the family friends of both sides and respectable members of the society, in the larger interest of both the parties and to maintain the cordial relations. The petitioner has no role in the leaving of house by respondent No.3.

4. The respondent No.2/complainant as well as respondent No.3/victim are personally present in the Court and have been duly identified by the Investigating Officer of the case. Both of them are not disputing the statement made by learned counsel for petitioner. The affidavits of both respondent Nos.2 & 3 are at page Nos.13 to 16. They further submit that since the matter stands settled between them, therefore, to restore cordiality amongst the parties, proceedings arising out of FIR in question be brought to an end.

5. Learned Additional Public Prosecutor appearing on behalf of the State submits that matter is pending with the police at the stage of initial investigation. Since the parties have amicably settled the matter and the respondent Nos.2&3 do not wish to pursue the case against the petitioner. Therefore, looking to the overall circumstances, no useful purpose will be served in continuing the proceedings. Thus, the State has no objection, if the present petition is allowed.

6. A three Judge Bench decision of the Supreme Court in '**Gian Singh Vs. State of Punjab**' (2012) 10 SCC 303, reiterated the principles that the High Court has inherent power to quash FIR or complaint in non- compoundable cases (1) to secure ends of justice or (2) to prevent abuse of process of any Court. The Supreme Court held that, however, such power must be exercised with due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victims family and the offender have settled the dispute.

7. While recognizing the need of amicable resolution of disputes in cases like the instant one, the aforesaid dictum has been affirmed by the Apex Court in a recent judgment in **Narinder Singh & Ors. Vs. State of Punjab & Anr. 2014 6 SCC 466**. The pertinent observations of the Apex Court 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.*

29.5. *While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.*

29.6. *Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this*

provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the

evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

8. Moreover, in the case bearing W.P.(Crl.) No.1442/2012, titled as **‘Bholu Khan Vs. State of NCT of Delhi & Ors,’** decided on 01.02.2013, a Division Bench of this Court held that if the girl is more than 16 years and voluntarily and of her own will accompanies a person, the proceedings under Section 363 or 376 IPC can be quashed.

9. Keeping in view the law discussed above, the fact that matter stands settled between the parties and the statements respondent Nos.1 to 3, it is a fit case where power under Section 482 of the Code of Criminal Procedure, 1973, can be exercised as continuation of the FIR and the proceedings emanating therefrom in question shall be abuse of the process of the law. Thus, it would be in the interest of justice and to avoid harassment to the petitioner if the proceedings are quashed.

10. Consequently, FIR No.1476/2015 registered at Police Station Tilak Nagar, Delhi, for the offence punishable under Section 365 of the IPC with emanating proceedings thereto, if any, is hereby quashed.

11. Accordingly, the petition is allowed with no order as to costs.

**SURESH KAIT
(JUDGE)**

MARCH 04, 2016
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