

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1016/2016**

Date of Decision: August 22nd, 2016

CHANDRASHEKHAR PANDEY & ANR Petitioners

Through: Mr. Waseem Ahmad, Mr. Haroon
Rasheed Khan Advocate

versus

STATE (NCT OF DELHI) & ANR Respondents

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State with Inspector
Rajeev Yadav, Police Station
Inderpuri, Delhi
Mr. Mansoor Ansari, Advocate for
respondent No. 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 petitioners, namely, Sh. Chandrashekhar Pandey and Smt. Ruchi Pandey for quashing of FIR No.101/2011 dated 26.11.2011 under Sections 420/468/471 IPC registered at Police Station Inder Puri on the basis of compromise deed entered into between the petitioners and respondent no. 2, namely, Sh. Manoj Kumar Mishra on 03.03.2012.

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 by his counsel.

3. The factual matrix of the present case is that the petitioner no.1/accused no.1 is engaged in the business of real estate in the name and style of M/s. Laxmi Enterprises. He invited bookings for the purchase of flats to be constructed on the property, Land no. A-93,

Inderpuri, hereinafter referred to as property in question. The complainant/respondent no.2 contacted the petitioner no.1/accused no.1 for the same as the accused persons/petitioners were already known to him. The accused no. 1 claimed himself to be the owner of the property in question and the complainant purchased a second floor flat of area measuring 100 sq. yards in the proposed building for a sum of Rs. 40 Lacs out of which he paid Rs. 6 Lacs as advance payment/pre-booking and for the purpose of clarity with respect to the said transaction the complainant and the accused no. 1 executed a Memorandum of Understanding dated 22.12.2010, as per the terms of which, it was agreed that in case the deal does not mature till 15.02.2011, the accused no. 1 shall return the pre-booking amount i.e. Rs. 6 lac with interest @ 2%. Thereafter, on enquiry, the complainant came to know that the accused no. 1 was not the owner of the property in question and that he had shown forged documents to the complainant with respect to the said property in question. The accused no. 1 returned the pre-booking amount of Rs. 6 Lacs on repeated requests of the complainant vide Cheque nos. 076225 & 076222 both dated 06.09.2011 for a sum of Rs. 1 Lac and 4.3 Lacs respectively drawn on State Bank of India, issued in the name of wife of the complainant and cash Rs. 70,000/- vide receipt dated 29.10.2011. On presentment, the cheques were returned as unpaid with the remarks "fund insufficient" along with its memo dated 01.11.2011. The receipt for Rs. 70,000/- was also forged by the accused no.1 by adding the wrong amount. Upon confrontation, the accused no. 1 and his wife/accused no. 2, petitioner no. 2 herein, started threatening the

complainant.

Thereafter, the complainant got lodged a complaint following which, the FIR in question was registered against the petitioners. An amicable settlement was arrived at between the parties during the pendency of the matter.

4. Respondent No.2 present in the Court submitted that the dispute between the parties has been amicably resolved. It is agreed that the petitioners shall pay a sum of Rs. 7.5 Lacs to the respondent no. 2 in the manner enunciated in the terms of settlement as the full and final settlement amount. It is agreed that the respondent no. 2 shall withdraw all the cases/complaints filed by him against the petitioners and that he shall also cooperate with the petitioners in getting the FIR in question quashed. It is agreed that between the parties that they shall not file any case/complaint against each other in future with respect to the MOU dated 22.12.2010. It is further agreed that in event of default of payment by the petitioners, the respondent no. 2 shall be at liberty to initiate the proceedings against the petitioners and the compromise deed shall be treated as null and void.

Respondent no. 2 affirmed the contents of the aforesaid settlement and of his affidavit dated 05.03.2016. In the affidavit, he has stated that he 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 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 have 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 no. 2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of his 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 offences under Sections 468/471 IPC are non-compoundable offences, therefore, 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.101/2011 dated 26.11.2011 under Sections 420/468/471 IPC registered at Police Station Inder Puri and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

AUGUST 22, 2016
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