

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1264/2016**

Date of Decision: November 10th, 2016

PARAMJEET SINGH & ANR Petitioners

Through Mr.Ashok Anand, Adv.

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through: Mr.M.P.Singh, APP.

Mr.Aditya Swarup Agarwal, 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 petitioners, namely, Sh. Paramjeet Singh and Sh. Amardeep Singh for quashing of FIR No.133/2013 dated 22.05.2013, under Sections 420/406/120B IPC registered at Police Station E.O.W. on the basis of settlement arrived at between the petitioner and respondent no.2 namely, Sh. Anand Prakash on 8.07.2015.

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 in the FIR in question by his counsel.

3. The factual matrix of the present case is that the complainant is the owner of entire building bearing no. 56, Transport Centre, New Subzi Mandi, Azadpur. It is alleged that in the first week of June 2011, Amardeep Singh had met the complainant in his office and told him that his father Paramjeet Singh was intending to sell his entire property bearing no.56, Transport Centre, New Subzi Mandi,

Azadpur, Delhi and gave an offer to the complainant that he may purchase the above said property. It is alleged by the complainant that he, on the assurances of Amardeep Singh and Paramjeet Singh, accepted the offer and agreed to purchase the above entire property consisting of basement, ground floor, first floor along with terrace rights from Shri Paramjeet Singh for a total sale consideration of Rs. 1 crore 21 lacs only. It is the case of the complainant that it was agreed between the parties that the complainant shall pay first installment of Rs. 7 Lakhs at the time of execution of the Bayana Agreement. It is alleged that the complainant himself contacted the tenants of the building and came to know from Sh. Gurdeep Singh @ Deepa, one of the tenants of the building in occupation of basement, that the Paramjeet Singh and Amardeep Singh had already sold the basement portion of the building to him and had executed documents in respect of the basement in favour of his wife. It is alleged that the upon contacting Paramjeet Singh and Amardeep Singh to accept the balance sale consideration amount and complete the sale, he was told by them that they would accept the balance amount only if the complainant would pay the amount of Rs. 2 crores to them. The complainant made several requests to the accused persons to adhere to the terms of the original Bayana Agreement, but to no avail.

Thereafter, the complainant got lodged the complaint following which the FIR in question was registered against the petitioner. During the pendency of the proceedings, the matter was settled between the petitioner and the respondent no. 2.

4. Respondent No.2 present in the Court submitted that the dispute

between the parties has been amicably resolved. As per the relevant terms of the settlement, it is agreed between respondent no.2 and petitioner no.2 that Pankaj Dawar shall withdraw the criminal complaint CC No. 28/1 titled “Sh. Panjkaj Dawar Vs. Amardeep Singh” filed by Pankaj Dawar, which is pending in the Court of Sh. Kapil Kumar, MM, Rohini Courts, Delhi as his accounts, liabilities and disputes have been settled on execution of the present compromise agreement within a month of the execution of the present agreement. It is also agreed that petitioner no.1 shall file a joint application along with Sh. Pankaj Dawar and withdraw suit CS no. 43/15 filed by him against Sh. Pankaj Dawar, pending before Sh. Satish Kumar , ADJ, Rohini Courts, Delhi on the next date of hearing along with the copy of the present agreement. It is agreed that the respondent no.2 shall sign all application(s), affidavit(s) etc. for compounding of offences in the FIR in question and that he shall appear before the Court as and when required in getting the offences compounded and give statements accordingly. It also agreed that amount of Rs. 7 Lakhs deposited by petitioner no.1 in the form of FDR at the time of anticipatory bail will be returned to him and respondent no.2 will not raise any claim over it. It is agreed that petitioner no. 1 is selling the property to respondent no. 2 as before. It is also agreed that the respondent no.2 shall cooperate in getting this FIR compounded and terminated and amount released to the petitioner no.1 and which not have any claim over the sum of Rs. 7 Lakhs that were deposited. It is agreed that all other disputes between the parties stand resolved and the parties have agreed to adhere to the terms of the settlement in the

manner enunciated in the terms of the same.

Respondent No.2 affirmed the contents of the aforesaid settlement and of his affidavit dated 21.03.2016 supporting this petition. 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 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 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 according to Section 320(2) Cr.P.C. section 420 IPC is an offence compoundable only with the permission of the Court, therefore, there should be no impediment in quashing the FIR under this section, 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.133/2013 dated 22.05.2013, under Sections 420/406/120B IPC registered at Police Station E.O.W. and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

November 10, 2016
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