

\$~41

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

+ W.P.(CRL) 1032/2015 and CrI.M.A.No.7350/2015

ABDUL MUNAF KHAN

..... Petitioner

Through: Mr.Pratap Sahai, Advocate.

versus

STATE & ANR

..... Respondents

Through: Ms.Richa Kapoor, A.S.C. with
Mr.Ashish Negi, Adv. for the State
With SI O.P.Mandal PS Paharganj
Mr.Punit K.Bhalla, Advocate for
R-2/ICICI Bank.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

17.05.2016

1. The present writ petition has been filed by the Petitioner under Articles 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No.3/2012, under Sections 420/468/471 IPC, registered at P.S.Paharganj, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as stated by the Petitioner in the present petition, are that present FIR was got registered on the complaint of ICICI Bank Ltd. On the allegations that petitioner herein submitted forged and fabricated documents for availing auto loan of Rs.12 lakhs which was sanctioned. The accused was also implicated by the CBI in another case and during investigation of said case one vehicle make Ford Endeavour bearing registration No.DL12CB 1159 which was stated to be purchased from the loan of Rs.12 lakhs was seized. During the trial, ICICI Bank i.e. complainant

filed an application for the release of vehicle make Ford Endeavour. During the course of proceedings the matter was referred to the Mediation Centre, Tis Hazari Courts, Delhi, where the dispute was settled for Rs.6,55,000/- (Rupees six lacs and fifty five thousand only) in full and final settlement of all claims of complainant/Respondent No.2. The settled amount of Rs.6,55,000/- (Rupees six lacs and fifty five thousand only) is stated to have been paid the Petitioners to the Respondent No.2 (complainant). Hence the present petition has been filed before this Court for quashing of the FIR in question.

3. It has been stated that both the parties have arrived at an amicable settlement out of their own sweet will, without any pressure and force from any corner and complainant does not wish to pursue the criminal case against the petitioners any further and want that the said FIR and all proceedings emanating therefrom may be quashed.

4. Offences punishable under Sections 468/471 IPC are non-compoundable offences. In the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim

have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have 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 victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. 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 proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. On behalf of the State/R-1, learned Addl. Standing Counsel further submits that some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery for recovery.

6. In view of the aforesaid amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the Petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

7. Accordingly, the petition is allowed and FIR No.3/2012, under Sections 420/468/471 IPC, registered at P.S.Paharganj, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner herein.

8. Petitioner is directed to deposit the cost of ₹ 20,000/- (Rupees Twenty thousand only) with the “Army Central Welfare Fund” at Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi, within two weeks from today and proof thereof shall be placed on record.

9. A copy of this order be sent to the Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi for information.

Order Dasti.

PRATIBHA RANI, J.

MAY 17, 2016

‘st/da’