

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

+ CRL.M.C. 4344/2015

Date of Decision : March 03<sup>rd</sup>, 2016

KRISHAN MEHTA & ANR

..... Petitioners

Through

Mr.Sushil Bajaj, Adv. with Mr.Tarun  
Dua, Adv.

versus

THE STATE ( NCT OF DELHI) & ANR

..... Respondents

Through

Mr.K.K. Ghai, APP for the State with  
SI Ramkesh Meena, PS Parliament  
Street.  
Mr.Ravi Mehta, Adv. with Authorised  
Representative of 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. Krishan Mehta and Sh. Shyam Mehta for quashing of FIR No.34/2015 dated 12.02.2015, under Section 420 IPC registered at Police Station Parliament Street on the basis of the settlement agreement arrived at between the petitioners and respondent no.2, namely, M/s Sterling Component (India) having its registered office at 4348/4C, Ansari Road, Daryaganj, New Delhi-110002 through its authorized representative Mr. Dharmendra Saini

on 14.07.2015.

2. Learned Additional Public Prosecutor for respondent-State submitted that Mr. Dharmendra Saini, the authorized representative of 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 lodged the FIR in question on the allegation that in the year 2011, the complainant met Mr. Rajiv Duggal who was the then manager of the accused company. He arranged a meeting with Mr. Krishna Mehta, MD of Energetic Lightning Pvt. Ltd. who told the complainant that he is running the business along with various other companies and expressed his desire to expand their business in north India and induced the complainant that if he does business with him then it would be very profitable for him. The complainant's company then started doing business of supply of the CFL components to the accused company from June 2011. In the month of April/May 2012, the accused company was given supplies worth Rs. 44,73,555/- and they promised to make the payment by the end of June 2012. The accused-petitioner no.1 told the complainant that there company is

going through a bad phase and thus they are unable to pay them. Later on, the petitioner no.1 bluntly asked the complainant not to visit their office. The petitioners kept on demanding more time for making the payment of all the dues. After some time, the petitioners bluntly refused to pay back the money which was due.

The complainant filed a criminal complaint No. 65/1/2014 under Section 200 Cr.P.C. before the Ld. MM., Patiala House Courts, New Delhi. The IO filed a status report and indicated that the matter being civil in nature, there is no cognizable offence. Subsequently, during the pendency of the proceedings, the IO registered the FIR in question. Pending the investigation, the petitioners and respondent no.2 arrived at an amicable settlement.

4. Mr. Dharmendra Saini, authorized representative of respondent no.2 present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the settlement agreement, it is agreed between the parties that petitioner no.1 shall, on behalf of himself and petitioner no.2, pay an aggregate amount of Rs.45,00,000/- only (hereinafter referred to as “settlement consideration”) to respondent no.2 against its total claim as full and

final settlement between the parties. The settlement consideration shall be paid by way of Demand Draft on or before 14.07.2015. It is also agreed that upon execution of this settlement, respondent no.2's entire claim against the petitioners shall stand fully satisfied and that respondent no.2 shall not be entitled to any further amount on account from the petitioners or initiate any action against the petitioners. It is also agreed that upon receipt of the settlement consideration the respondent no.2 shall immediately file an application before the concerned judicial forum in respect of its pending criminal complaint(s) seeking withdrawal/quashing of the said action(s) against the petitioners. It is also agreed that the respondent no.2 shall not initiate any civil/criminal action for recovery or winding up proceedings against the petitioners, petitioners' company and/or its directors. It is also agreed that respondent no.2 shall withdraw its claim as raised in company petition No. 12 of 2015 pending before this Court and seek appropriate consequential directions. It is also agreed that the instant settlement between the parties shall not be deemed as an admission of any liability on behalf of the respondent no.2 and/or petitioner no.1 and/or petitioner no.2 in respect of the

disputes. It is also agreed that the instant settlement is being arrived at to buy peace and to settle the disputes. Mr. Dharmendra Saini affirmed the contents of the aforesaid settlement. 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 Mr. Dharmendra Saini, authorized representative of respondent No.2, has been recorded in this regard in which he stated that respondent no.2 has entered into a compromise with the petitioners and has settled all the disputes with them. He further stated that respondent no.2 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. Mr. Dharmendra Saini, authorized representative of respondent no.2, agreed to the quashing of the FIR in question and has stated that the matter has been settled out of respondent no's.2 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 tranquillity 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., the offence under Section 420 IPC is an offence compoundable with the permission of the Court, 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 Mr. Dharmendra Saini, 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.34/2015 dated 12.02.2015, under Section 420 IPC registered at Police Station Parliament Street and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

**(P.S.TEJI)**  
**JUDGE**

**MARCH 03, 2016**  
**dd**