

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

+ **CRL.M.C.114/2016**

Date of Decision : March 21st, 2016

M/S IOCL OFFICERS WELFARE SOCIETY & ORS Petitioner

Through **Mr.Naresh Sharma & Mr.Shyamal
Kumar, Advs.**

versus

STATE & ANR

..... Respondent

Through **Mr.Rajat Katyal, APP for the State.
Mr.Ravinder Yadav, Mr.Sudesh
Kumar & Mr.Vinayak Sharma, Advs.
for R-2 with 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, M/s. IOCL Officers Welfare Society through its secretary Sh. Bijoy Kumar Sharma, Sh. Bijoy Kumar Sharma, Sh. K.S. Krishanan, Sh. Umesh Kapoor, Sh. Randir @ Pohap and Sh. Mukesh for quashing of FIR No.432/2015 dated 17.07.2015, under Sections 420/467/468/506/120-B/34 IPC registered at Police Station Chhawala on the basis of the mediation report of the Delhi High Court Mediation and Conciliation Centre, Delhi High Court, New Delhi in view of the settlement arrived at between the petitioners and respondent no.2 namely, Smt. Bharpai along with her son-Jaipal

through his mother on 30.10.2015.

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 her counsel.

3. The factual matrix of the present case is that the FIR in question was lodged by the complainant on the allegation that Jaipal is the owner of 1/4th share of the land admeasuring 15 Bighas & 15 Biswas (3.247 acres) out of Agricultural Land admeasuring 62 Bighas & 7 Biswas, comprising in Khasra No. 25/17/2(1-2), 18(4-4), 19(4-1), 21(4-11), 22(4-12), 23(4-16), 24 (410), 30(0-5), Khasra No. 30, Killa No. 1(4-16), 2/1(2-6), 3/1(2-8), 4(4-16), 5/1(3-4), 10(4-16) and Khasra No. 31, Killa No. 6(4-16), 15(4-16), 16/1(2-8), situated in revenue estate of Village Daulatpur, Tehsil: Kapashera, District: South West, New Delhi-110043. Jaipal executed and got registered the GPA in favour of his mother. The petitioner nos. 4 to 6 approached the complainant for the sale of the said property to petitioner no.1. The complainant agreed to the same for a consideration of Rs. 14,49,00,000/-. A sale deed dated 04.10.2013 was executed by the complainant in favour of the petitioner no.1 through petitioner no.2. The accused persons being aware that the complainant is an illiterate person, in conspiracy with each other, illegally mentioned in the said deed that the total sale amount has already been paid through various cheques.

Thereafter, the respondent no.2 and her son Jaipal, filed a Civil Suit bearing No. CS (OS) 3778/2014 before this Court for declaration

and permanent injunction. The respondent no.2 and her son were referred to the mediation centre by this Court vide its order dated 20.10.2015 and the entire dispute was amicable settled between the parties.

4. Respondent No.2 present in the Court submitted that the dispute between the parties has been amicably resolved. As per the mediation report, it has been agreed that respondent no.2 shall not challenge anywhere, sale of 1/4th share of their land admeasuring 15 Bighas & 15 Biswas (in acres 3.247 acres) out of Agricultural Land admeasuring 62 Bighas & 7 Biswas, comprising in Khasra No. 25/17/2(1-2), 18(4-4), 19(4-1), 21(4-11), 22(4-12), 23(4-16), 24 (410), 30(0-5), Khasra No. 30, Killa No. 1(4-16), 2/1(2-6), 3/1(2-8), 4(4-16), 5/1(3-4), 10(4-16) and Khasra No. 31, Killa No. 6(4-16), 15(4-16), 16/1(2-8), situated in revenue estate of Village Daulatpur, Tehsil: Kapashera, District: South West, New Delhi-110043, to the Second Party. It is also agreed that petitioner no.1 shall pay an amount of Rs. 1.05 Crores by way of Demand Draft/ Pay Order in favour of Sh. Jaipal, towards full and final settlement of all the disputes pertaining to the land in question. It is also agreed that the above payment shall be made in the manner as enunciated in the mediation report. It is also agreed that the respondent no.2 shall not pursue the criminal case pending before the Ld. MM, Dwarka Court, New Delhi and shall withdraw the same and it is further agreed that the respondent no.2 shall take appropriate steps/cooperate with petitioner nos.1 & 6 for the quashing of the FIR in question. It is also agreed that the respondent no.2 shall appear before this Court for making the appropriate statements for the

quashing of the FIR in question. It is also agreed that the copy of the said settlement shall be submitted to the SHO/I.O., P.S. Chhawla, and respondent no.2 shall make statement before the SHO/IO in respect of the settlement. It is also agreed that after the receipt of the said amount in the manner as stated the mediation report, neither respondent no.2 and Sh. Jaipal Singh nor their representative/legal heirs/assignees etc. shall raise any dispute or claim in respect of the aforesaid land and the sale deed dated 04.10.2013, executed by respondent no.2 and Sh. Jaipal Singh in favour of petitioner no.1 vide registration no. 11245 in Book No. 1 Vol. No. 7329 on page 72 to 79 on 07.10.2013 with the office of sub-registrar IX, Kapashera, New Delhi. It is also agreed that respondent no.2 and Sh. Jaipal Singh shall not claim any right, title or interest in the aforesaid land as well as not interfere in any manner in peaceful possession of petitioner no.1 over the said land, which is the subject matter of the sale deed. It is also agreed that the petitioner no.1 shall be the rightful and the absolute owner of the aforesaid land and they shall be free to deal with the said land in any manner they please. It is also agreed that between the parties, none of them shall initiate or pursue or raise any civil or criminal proceedings before any forum or Court of law in future and withdraw the same with immediate effect, if any, so initiated by either parties to the settlement herein regarding the aforesaid lands in question or sale deed in question. It is also agreed that after receipt of the aforesaid amount all the claims of respondent no.2 and Sh. Jaipal Singh shall stand satisfied and they would not agitate the same in any manner whatsoever before any authority or Court of law. Respondent no. 2 affirmed the content of the aforesaid

settlement and of her affidavit dated 27.12.2015 supporting this petition. In the affidavit, the respondent no.2 has stated that she 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 she stated that she has entered into a compromise with the petitioners and has settled all the disputes with them. She further stated that she 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 has stated that the matter has been settled out of her 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 the offences under Sections 467/468 IPC are non-compoundable offences, 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 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.432/2015 dated 17.07.2015, under Sections 420/467/468/506/120-B/34 IPC registered at Police Station Chhawala and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MARCH 21, 2016
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