

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

+ **CRL.M.C. 5213/2015**

Date of Decision: May 09th, 2016

VIJIT VINOD NAUTIYAL Petitioner

Through **Mr. Om Prakash, Adv.**

versus

STATE & ORS Respondent

Through **Ms. Manjeet Arya, APP.**

**Mr. Ravinder Pal Singh, Adv. for
Respondent Nos.2 to 6.**

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 petitioner, namely, Sh. Vijit Vinod Nautiyal for quashing of FIR No.120/2013 dated 22.04.2013, under Sections 279/304A IPC registered at Police Station Swaroop Nagar on the basis of a Memorandum of Understanding (MOU) executed between the petitioner and respondent nos.2-6, namely, Smt. Shamim Bano, Sh. Attaullah Khan, Sh. Kasim, Sh. Sultan Khan and Smt. Sirazan Begum on 03.10.2015.

2. Learned Additional Public Prosecutor for respondent-State submitted that the respondent nos.2-6, present in the Court have been identified to be the victims in the FIR in question by their counsel.

3. The factual matrix of the present case is that the FIR in question

was lodged by the complainant, namely, Ct. Ranbir on the allegation that on 22.04.2013 at about 1.10 pm, on car whose driver was driving it in a negligent manner hit a by-cycle from behind on the G.T. Road and the cycle rider fell on the road. The complainant reached immediately at the spot and sent the victim to the hospital and apprehended the driver. The complainant came to know that the driver's name is Vijit Vinod Nautiyal.

After the completion of certain formalities, the police official arrested the petitioner and released him on bail. Thereafter, the petitioner and respondent no.2 settled their matter amicably.

4. Respondent Nos.2-6 present in the Court submitted that the dispute between the parties has been amicably resolved. As per the MOU, it is agreed between the parties that respondent nos.2-6 had not seen who had hit the deceased Sh. Amanullah and that there is no reason to disbelieve the version/explanation, therefore, they are ready to exonerate the petitioner from the charge even if the said accident had been caused by the petitioner. It is also agreed that the respondent nos.2-6 have already received a sum of Rs. 12,09,256/- on 13.11.2013 in the MACT case no. 178/2013, from the Court of Ms. Preeti Aggarwal Gupta Judge, MACT, Rohini Courts, Delhi which was filed by them against the petitioner and Insurance Company. It is also agreed that to compensate the respondent nos.2-6, petitioner and his family have extended an amount of Rs. 2 Lacs for their financial support which has come to an end and loss of earning on untimely death of deceased Amanullah. It is also agreed that in consideration of the said moral support and financial help, the respondent nos.2-6 have

agreed to extend full co-operation to petitioner for getting the FIR in question quashed. It is also agreed that the petitioner has already paid a sum of Rs. 50,000/- to respondent nos.2-6 as a token money and balance amount Rs. 1.5 Lakhs shall be paid at the time of quashing of the FIR in question before this Court. It is also agreed that in case the FIR is not quashed by this Court, the token amount of Rs. 50,000/- received by the L.R.s of the deceased, would not be refundable back to the petitioner as the same shall be treated as litigation expenses. It is also agreed that respondent nos.2-6 shall give No Objection Certificate Cum Affidavit to the petitioner for filing along with the petition for quashing of the FIR in question. It is also agreed that respondent nos.2-6 have no objection for getting the FIR in question quashed and dropping the case initiated on the basis of the FIR in question. Respondent nos. 2-6 affirmed the contents of the aforesaid settlement and of their affidavits dated 12.10.2015 supporting this petition. In their individual affidavits, the respondent nos.2-6 have stated that they have no objection if the FIR in question is quashed and that the contents of the present petition are correct and true. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioner survives and so, the proceedings arising out of the FIR in question be brought to an end. Statements of the respondent nos.2-6 have been recorded in this regard in which they stated that they have entered into a compromise with the petitioner and have settled all the disputes with him. They further stated that they have 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 nos.2-6 agreed to the quashing of the FIR in question and has stated that the matter has been settled out of their 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 279/304A 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 statements made by the respondent nos.2-6, 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.120/2013 dated 22.04.2013, under Sections 279/304A IPC registered at Police

Station Swaroop Nagar and the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of.

(P.S.TEJI)
JUDGE

MAY 09, 2016
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