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

+ CRL.M.C. 3346/2017

AMIT CHAUHAN

..... Petitioner

Through: Mr. Ramesh Gupta, Sr. Adv. with Mr.
Ajay P. Tushir, Mr. Anuj Gupta and
Mr. Vijay Bishnoi, Advs.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Ms. Meenakshi Chuahan, APP for
State with Insp. Pyare Lal, P.S. Qutub
Minar.

Mr. Sunil K. Mittal, Mr. Gautam
Choubey, Mr. Kshitij Mittal, Ms.
Aanchal Mittal and Mr. Anuj Nagpal,
Advs. for R-2 along with R-2 in
person with her father.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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24.08.2017

By this petition, petitioner has prayed for quashing of FIR No. 54/2014 registered at police station Qutub Minar Metro on the complaint of respondent no.2. Respondent no.2 has alleged in the FIR that petitioner was her friend and had been pestering her to marry him. On 23rd July, 2014, petitioner and respondent no.2 met at Kashmere Gate Metro Station at about 8:25 am and boarded the train and went to Rajiv Chowk Metro Station where petitioner broke his phone. Complainant tried to make the petitioner understand that they could not be together in future but petitioner kept

forcing her. While they were going to M.G. Road Metro Station the petitioner said that he wanted to go to washroom, therefore, they got down at Chattarpur Metro Station. While they were waiting for another train at Chattarpur Metro Station petitioner pushed the complainant resulting injuries to her.

It is submitted that petitioner and respondent no. 2 have now settled their disputes amicably after petitioner has explained the respondent no.2 his true intention; that he thought that respondent no.2 was trying to commit suicide in view of the altercations, which took place between them earlier, therefore, in order to save her he had put his hand around her waist but in the process both of them had tumbled down on the tracks. Respondent no.2 is present with her counsel and has been identified by Insp. Pyare Lal of police station Qutub Minar Metro. Her father is also present with her. Respondent no.2 submits that she is now convinced that petitioner had no intention to kill her nor tried to commit suicide. She says that she has settled the matter with the petitioner of her own free will and without any force, pressure or coercion and is not willing to pursue the FIR any further and the same may be quashed. and has agreed for quashing of FIR.

Statements of respondent no.2 as well as petitioner have been

recorded, on oath, separately.

In her statement, respondent no.2 has stated as under:-

“FIR No. 54/2014 under Sections 307/309 IPC was registered at police station Qutub Minar Metro on my complaint on 23rd July, 2014. Petitioner-Amit Chuahan was known to me as we both had studied in the same engineering college. Petitioner had completed his M-Tech. We were friends. Petitioner had been asking me to marry him. On 23rd July, 2014 we were together for quite some time. Altercations took place between me and petitioner. I intended to settle abroad and I told this fact to the petitioner. We had taken metro train from Kashmere Gate at about 8:25 am and went to Rajiv Chowk Metro Station. Thereafter, we boarded the metro train for M.G. Road Metro Station, however, we got down at Chattarpur Metro Station as we had some heated arguments. We were standing at Chattarpur Metro Station where a train was coming at the platform and we both fell down on the railway track as petitioner thought that I was trying to jump. He tried to hold me and in the process both of us tumbled down and fell on the track. At that time, I thought that petitioner tried to push me but later on, I have realised, after discussions with him, that he was under the impression that I was trying to commit suicide and for that reason petitioner put his hand around my waist and hold me and in that process both of us fell down on the railway track. Presently, I am in Australia and pursuing my masters in Biotechnology from there. The statement, contained in the FIR, was made by me out of some confusion and what I perceived at that time. I do not wish to pursue the FIR any further having come to know about the true facts and the FIR may be quashed. I have made the above statement out of my own free will and without any undue force, pressure or coercion.”

In *Narinder Singh & Ors. vs. State of Punjab & Anr.* 2014 (2) JCC

1360, Supreme Court has held as under :-

“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:

(I) 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.

(II) 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.

(III) 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 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.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly 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.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak

and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed

but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 Indian Penal Code is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

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In the facts and circumstances of the present case more particularly the statement of complainant recorded in Court today and reproduced hereinabove, in my view, possibility of prosecution resulting in conviction is remote. Petitioner and respondent no.2 are young. They are highly qualified and have long future ahead them. They have settled their disputes amicably and without any undue force, pressure or coercion and respondent no.2 is not willing to pursue the FIR any further. In these facts and circumstances, in my view, continuance of prosecution would be an abuse of process of court. Accordingly, in the interest of justice, FIR No. 54/2014 under

Sections 307/309 IPC registered at police station Qutub Minar Metro and the consequent proceedings emanating therefrom are quashed.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

Dasti.

A.K. PATHAK, J.

AUGUST 24, 2017

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