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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 6th July, 2018

+ CRL. M.C. 1066/2016

SANTOSH CHAWLA & ANR Petitioners

Through: Ms. Shilpa Chohan, Advocate.

versus

STATE & ANR Respondents

Through: Mr. Arun Kumar Sharma, APP
with SI Pawan Kumar, P.S.
Kalkaji.
Mr. Priyank Atri, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The second respondent had made a complaint sometime in 2008 in the court of Metropolitan Magistrate alleging offences punishable under Sections 419/420/463/464/468/471/120B of Indian Penal Code, 1860 (IPC) having been committed by the petitioners, concededly his mother and brother respectively, vis-à-vis certain property in which he claimed to have a share. The said complaint resulted in direction in terms of Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) being issued to the police and that resulted in First Information Report (FIR) no. 464/2008 being registered by Police Station Kalkaji. The parties, it may be added, were also locked in litigation in civil court, it having arisen out of the same controversy.

The FIR was investigated into and is stated to have resulted in a charge-sheet being presented in the competent court on which cognizance was taken in 2010. It appears no progress has been made in the said criminal case ever since.

2. The civil dispute, in the meanwhile, had resulted in certain decision by the trial court which became subject matter of Regular First Appeal (no. 234/2012) that came up before this Court. The parties at that stage went to the process of mediation where they entered into a settlement in terms of which certain obligations and rights vis-à-vis each other were created. One of the said terms of settlement was that the second respondent would “*cooperate in every way necessary*” to secure the quashing of the afore-mentioned FIR. Concededly, the terms of the settlement were not abided by and the grievances of each side against the other continued. The petitioners had earlier approached this Court with similar prayer as in the petition at hand by Criminal M.C. No.115/2013 for quashing of the FIR but the said prayer was declined by order dated 17.09.2013. Later, yet another similar petition was filed, it being Crl.M.C. No. 5887/2014 which was dismissed as withdrawn on 10.12.2015.

3. Against the above backdrop, this petition has been filed seeking the proceedings in the criminal case arising out of the afore-mentioned FIR to be quashed.

4. In a ruling of a bench of three Hon’ble Judges of the Supreme Court reported as *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641, the law on the subject has been reiterated as under:

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6 In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned.

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of

the act complained of upon the financial or economic system will weigh in the balance”.

5. While it does appear that the allegations concerning the offences in the nature of cheating in the case at hand relate to a dispute between two parties, it cannot be ignored that the criminal case also involves such grave offences as forgery and fabrication of documents in the nature of valuable security, which would attract an offence punishable under Section 467 IPC. At the hearing it was fairly conceded that there is evidence presented with the charge-sheet indicating fabrication of general power of attorney and agreement to sell purportedly executed by late Sh. Prithvi Raj Chawla (husband of the first petitioner and father of the second petitioner and second respondent), the forgery being substantiated by report of forensic science laboratory (FSL).

6. In this nature and gravity of the matter, the overriding element of public interest inhibits this Court from exercising its extraordinary inherent jurisdiction under Section 482 Cr.P.C. to put an end to the criminal prosecution.

7. The prayer for quashing of the criminal case as afore-mentioned is, thus, declined.

R.K.GAUBA, J.

JULY6, 2018

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