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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 6th July, 2018

+ CRL. M.C. 2540/2016

ROSHAN LAL KALRA & ANR Petitioners

Through: Mr. Rakesh Patiyal, Advocate.

versus

STATE & ANR Respondents

Through: Mr. Ashish Dutta, APP with SI
Naveen, P.S. Sabzi Mandi.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. On the complaint of second respondent, the Station House Officer (SHO) of Police Station Sabzi Mandi has registered a First Information Report (FIR) no. 89/2016 on 17.02.2016 for investigation into offences punishable under Sections 420/468/471/34 of Indian Penal Code, 1860 (IPC). It appears the second respondent is the owner of property described as shop (internal no.6) in property no. 2086, Gali no. 38, Naiwala, Karol Bagh, New Delhi, wherein the petitioners along with one another were statedly claiming to be tenants. The second respondent had earlier instituted certain proceedings in the court of Additional Rent Controller vis-à-vis the tenancy in the said shop. The petitioners had used certain documents purporting to be rent receipts issued by Laxmi Raj Sharma, late father

of second respondent, in respect of the said shop in favour of M/s Echkey Plastics Industries. These documents, as per the allegations in the FIR, were forged and fabricated, the design of the petitioners being to commit the offence of cheating using such fabricated documents.

2. The present petition has been filed with a prayer that the proceedings in the criminal case arising out of the afore-mentioned FIR be quashed, primarily on the ground that the dispute between the parties as to the tenancy has since been settled and the vacant possession of the premises in question already handed over to the second respondent by the petitioners.

3. 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”.

4. 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 available confirming the forgery of the rent receipts which was presented in the Rent Control proceedings.

5. 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.

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

R.K.GAUBA, J.

JULY6, 2018

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